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# **Regulatory Affairs Committee**

**Tuesday, April 9, 2013  
10:30 AM  
404 HOB**

**Will Weatherford  
Speaker**

**Doug Holder  
Chair**



# The Florida House of Representatives

## Regulatory Affairs Committee

Will Weatherford  
Speaker

Doug Holder  
Chair

### AGENDA

April 9, 2013  
404 HOB  
10:30 AM – 1:00 PM

- I. Call to Order and Roll Call
- II. CS/HB 277 by *Finance & Tax Subcommittee; Reps. Rehwinkel Vasilinda; J. Diaz*  
Assessment of Residential and Nonhomestead Real Property
- III. CS/CS/HB 343 by *Government Operations Appropriations Subcommittee; Insurance & Banking Subcommittee; Rep. Hager*  
Wrap-Up Insurance Policies
- IV. CS/HB 347 by *Business & Professional Regulation Subcommittee; Rep. Renuart*  
Distilled Spirits
- V. CS/HB 383 by *Insurance & Banking Subcommittee; Rep. Hudson*  
Interstate Insurance Product Regulation Compact
- VI. CS/HB 433 by *Insurance & Banking Subcommittee; Rep. Richardson*  
Inspector General of Citizen's Property Insurance Corporation
- VII. CS/HB 493 by *Insurance & Banking Subcommittee; Rep. Fitzenhagen*  
Security of Protected Consumer Information
- VIII. CS/HB 579 by *Energy & Utilities Subcommittee; Rep. Ray*  
Natural Gas Motor Fuel

- IX. CS/CS/HB 667 by *Rulemaking Oversight & Repeal Subcommittee; Business & Professional Regulation Subcommittee; Rep. Porter*  
Real Estate Brokers & Appraisers
- X. CS/HB 737 by *Business & Professional Regulation Subcommittee; Rep. Ahern*  
Swimming Pool and Spa Contracting
- XI. CS/CS/HB 819 by *Government Operations Appropriations Subcommittee; Insurance & Banking Subcommittee; Rep. Raschein*  
Florida Commission on Hurricane Loss Projection Methodology
- XII. CS/CS/HB 883 by *Government Operations Appropriations Subcommittee; Insurance & Banking Subcommittee; Rep. Boyd*  
Fire Safety and Prevention
- XIII. HB 913 by *Reps. Bileca; Rader*  
Holocaust Victims Assistance Act
- XIV. HB 1067 by *Reps. Hutson; Combee*  
Pugilistic Exhibitions
- XV. ADJOURNMENT

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Regulatory Affairs Committee

**Start Date and Time:** Tuesday, April 09, 2013 10:30 am  
**End Date and Time:** Tuesday, April 09, 2013 01:00 pm  
**Location:** 404 HOB  
**Duration:** 2.50 hrs

#### Consideration of the following bill(s):

CS/HB 277 Assessment of Residential and Nonhomestead Real Property by Finance & Tax Subcommittee, Rehwinkel Vasilinda, Diaz, J.  
CS/CS/HB 343 Wrap-Up Insurance Policies by Government Operations Appropriations Subcommittee, Insurance & Banking Subcommittee, Hager  
CS/HB 347 Distilled Spirits by Business & Professional Regulation Subcommittee, Renuart  
CS/HB 383 Interstate Insurance Product Regulation Compact by Insurance & Banking Subcommittee, Hudson  
CS/HB 433 Inspector General of Citizen's Property Insurance Corporation by Insurance & Banking Subcommittee, Richardson  
CS/HB 493 Security of Protected Consumer Information by Insurance & Banking Subcommittee, Fitzenhagen  
CS/HB 579 Natural Gas Motor Fuel by Energy & Utilities Subcommittee, Ray  
CS/CS/HB 667 Real Estate Brokers & Appraisers by Rulemaking Oversight & Repeal Subcommittee, Business & Professional Regulation Subcommittee, Porter  
CS/HB 737 Swimming Pool and Spa Contracting by Business & Professional Regulation Subcommittee, Ahern  
CS/CS/HB 819 Florida Commission on Hurricane Loss Projection Methodology by Government Operations Appropriations Subcommittee, Insurance & Banking Subcommittee, Raschein  
CS/CS/HB 883 Fire Safety and Prevention by Government Operations Appropriations Subcommittee, Insurance & Banking Subcommittee, Boyd  
HB 913 Holocaust Victims Assistance Act by Bileca, Rader  
HB 1067 Pugilistic Exhibitions by Hutson, Combee

Pursuant to rule 7.12, the filing deadline for amendments to bills on the agenda by a member who is not a member of the committee or subcommittee considering the bill is 6:00 p.m., Monday, April 8, 2013.

By request of the Chair, all Regulatory Affairs Committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Monday, April 8, 2013.

**NOTICE FINALIZED on 04/05/2013 16:18 by Ellinor.Martha**





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 277 Assessment of Residential and Nonhomestead Real Property  
**SPONSOR(S):** Finance & Tax Subcommittee, Rehwinkel Vasilinda, Diaz, J., and others  
**TIED BILLS:** None. **IDEN./SIM. BILLS:** HB 1064 (compare)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee	14 Y, 0 N	Whittier	Collins
2) Finance & Tax Subcommittee	15 Y, 0 N, As CS	Aldridge	Langston
3) Regulatory Affairs Committee		Whittier <i>sjw</i>	Hamon <i>K.W.H</i>

### SUMMARY ANALYSIS

In the November 2008 General Election, Florida voters approved a constitutional amendment relating to property taxes that authorized the Legislature, by general law, to prohibit consideration of the following in the determination of the assessed value of real property used for residential purposes:

- Any change or improvement made for the purpose of improving the property's resistance to wind damage.
- The installation of a renewable energy source device.

This bill provides for partial implementation of the 2008 constitutional amendment. Specifically, the bill defines "renewable energy source device" and provides that a property appraiser may not consider the increase in the just value attributed to the installation of a renewable energy source device when determining the assessed value of real property used for residential purposes.

The bill specifies that the provision applies to new and existing residential real property. Specifically, the provision applies to installations made on or after January 1, 2013.

The bill takes effect on July 1, 2013, and applies to assessments beginning January 1, 2014.

The Revenue Estimating Conference (REC) has estimated that this bill will have no impact on state revenues.

The REC estimated, **assuming current millage rates**, that the provisions of the bill will have no impact on local government revenues in FY 2013-14, but will increase each year thereafter reaching an annual impact of -\$12.6 million in FY 2017-18, which is the recurring impact.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Renewable Energy Property Tax Exemptions and Constitutional Amendment #3 (2008)**

In 1980, Florida voters added the following authorization to Article VII, section 3(d), Florida Constitution:

By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, and for the period of time fixed by general law not to exceed ten years.

During the same year, based on the new constitutional authority, the Legislature approved a property tax exemption for real property on which a renewable energy source device is installed and is being operated.<sup>1</sup> However, the exemption expired after 10 years, as provided in the constitution. Specifically, the exemption period authorized in statute was from January 1, 1980, through December 31, 1990. Therefore, if an exemption was granted in December 1990, the exemption terminated in December 2000. The law required that the exemption could be no more than the lesser of the following:

- The assessed value of the property less any other exemptions applicable under the chapter;
- The original cost of the device, including the installation costs, but excluding the cost of replacing previously existing property removed or improved in the course of the installation; or
- Eight percent of the assessed value of the property immediately following the installation.

In December of 2000, the last of the exemptions expired.

During the 2008 Legislative Session, HB 7135 (ch. 2008-227, L.O.F.) was enacted, removing the expiration date of the property tax exemption, thereby allowing property owners to once again apply for the exemption, effective January 1, 2009. The period of each exemption, however, remained at 10 years. The bill also revised the options for calculating the amount of the exemption for properties with renewable energy source devices by limiting the exemption to the amount of the original cost of the device, including the installation cost, but not including the cost of replacing previously existing property.

In the November 2008 General Election, Florida voters approved a constitutional amendment placed on the ballot by the Taxation and Budget Reform Commission adding the following language to Article VII, section 4, of the Florida Constitution:

(i) The legislature, by general law and subject to conditions specified therein, may prohibit the consideration of the following in the determination of the assessed value of real property used for residential purposes:<sup>2</sup>

(1) Any change or improvement made for the purpose of improving the property's resistance to wind damage.

(2) The installation of a renewable energy source device.

<sup>1</sup> Sections 196.175 and 196.012(14), F.S.

<sup>2</sup> The 2008 constitutional amendment is permissive and does not *require* the Legislature to enact legislation.

The amendment also repealed the constitutional authority for the Legislature to grant an *ad valorem* tax exemption to a renewable energy source device and to real property on which such device is installed and operated. This repealed language had provided the constitutional basis for legislation passed in 1980 and in 2008. Although the constitutional provision that the *ad valorem* tax exemption was based on has been repealed, the statutory language has not yet been repealed by the Legislature. On March 10, 2010, the House passed HB 7005, repealing the obsolete language [ss. 196.175 and 196.012(14), F.S.]. The bill, however, was not heard in the Senate and died in Messages. In 2011 and 2012, the House, again, passed the provision that repealed the obsolete language within bills implementing the constitutional amendment, but the bills died in the Senate.

Since the 2009 Session, a bill addressing implementation of the constitutional amendment has been filed in the House. In 2009, 2011, and 2012, the measure passed the House,<sup>3</sup> but was not heard in the Senate.

### **Property Valuation and Property Appraisals**

Article VII, section 4, of the Florida Constitution, provides that all property, with some exceptions, is to be assessed at “just value.” Florida courts define “just value” as the estimated fair market value of the property. The constitution requires property appraisers to establish the just value of every parcel of real property as of January 1 each year.

“Assessed value of property”<sup>4</sup> is defined as an annual determination of the just or fair market value of an item or property or the value of a homestead property after application of the “Save Our Homes” assessment limitation<sup>5</sup> and the 10 percent cap on non-homestead property.<sup>6</sup> In addition, “assessed value” is also the classified use value of agricultural or other special classes of property that are valued based on their current “classified” use rather than on market value.

Section 193.011, F.S., lists the following factors to be taken into consideration when a property appraiser is determining just valuation:

- (1) The present cash value of the property, which is the amount a willing purchaser would pay a willing seller, exclusive of reasonable fees and costs of purchase, in cash or the immediate equivalent thereof in a transaction at arm's length;
- (2) The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration the legally permissible use of the property, including any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and any zoning changes, concurrency requirements, and permits necessary to achieve the highest and best use, and considering any moratorium imposed by executive order, law, ordinance, regulation, resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium or judicial limitation prohibits or restricts the development or improvement of property as otherwise authorized by applicable law. The applicable governmental body or agency or the Governor shall notify the property appraiser in writing of any executive order, ordinance, regulation, resolution, or proclamation it adopts imposing any such limitation, regulation, or moratorium;

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<sup>3</sup> The bills that passed the House are as follows: CS/HB 7113 (2009), CS/CS/HB 531 (2011), and CS/HB 133 (2012). In 2010, CS/HB 151 died in the House Finance & Taxation Committee.

<sup>4</sup> Section 192.001(2), F.S.

<sup>5</sup> The “Save Our Homes” amendment to the Florida Constitution was approved by voters in 1992. This amendment limits annual assessment increases to the lower of: 3 percent of the assessment for the prior year or the change in the Consumer Price Index (CPI) for all urban consumers. See Art. VII, s. 4(d)(1), Fla. Const.

<sup>6</sup> On January 29, 2008, Florida voters approved a constitutional amendment changing property taxation provisions. Some of the changes provided that the property tax assessment of certain non-homestead property cannot increase by more than 10 percent per year, so long as ownership of the property does not change. The limitation does not apply to taxes levied by school districts.

- (3) The location of said property;
- (4) The quantity or size of said property;
- (5) The cost of said property and the present replacement value of any improvements thereon;
- (6) The condition of said property;
- (7) The income from said property; and
- (8) The net proceeds of the sale of the property, as received by the seller, after deduction of all of the usual and reasonable fees and costs of the sale, including the costs and expenses of financing, and allowance for unconventional or atypical terms of financing arrangements. When the net proceeds of the sale of any property are utilized, directly or indirectly, in the determination of just valuation of realty of the sold parcel or any other parcel under the provisions of this section, the property appraiser, for the purposes of such determination, shall exclude any portion of such net proceeds attributable to payments for household furnishings or other items of personal property.

### **Effect of Proposed Changes**

The bill provides that, in determining the assessed value of real property used for residential purposes, for both new and existing property, a property appraiser may not consider the increase in the just value attributed to the installation of a renewable energy source device.

- The installation of a renewable energy source device means any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:
  - Solar energy collectors, photovoltaic modules, and inverters.
  - Storage tanks and other storage systems, excluding swimming pools used as storage tanks.
  - Rockbeds.
  - Thermostats and other control devices.
  - Heat exchange devices.
  - Pumps and fans.
  - Roof ponds.
  - Freestanding thermal containers.
  - Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, such equipment does not include conventional backup systems of any type.
  - Windmills and wind turbines.
  - Wind-driven generators.
  - Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy.
  - Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

The bill provides that when residential real property is being assessed, any increase in the just value of the property attributable to the installation of a renewable energy source device may not be considered if an application is filed with the property appraiser on or before March 1 of the first year the property owner requests the assessment. The provision applies to changes or improvements to properties made on or after January 1, 2013, and applies to assessments beginning January 1, 2014.

The property appraiser may require the taxpayer or the taxpayer's representative to furnish the property appraiser such information as may reasonably be required to establish the increase in just value attributable to the renewable energy source device.

Similar to provisions in s. 196.011, F.S., the language provides the opportunity to file a late application with the property appraiser within 25 days following the mailing of the Truth in Millage notice and authorizes the applicant to file a petition with the Value Adjustment Board (VAB), pursuant to s. 194.011(3), F.S. The applicant must pay a non-refundable fee of \$15.00 upon filing the petition. Upon review of the petition by the property appraiser or the VAB, if the property is qualified to be assessed under the provisions of the bill and the property owner demonstrates particular extenuating circumstances to warrant granting assessment under this section, the property appraiser must recalculate the assessment in accordance with the new provision.

The bill deletes the existing definition of renewable energy source device in s. 196.012(14), F.S., and repeals the obsolete exemption (s. 196.175, F.S.), based on the repeal of the constitutional provision by the voters in 2008. Several cross-references are amended.

#### B. SECTION DIRECTORY:

**Section 1.** Creates s. 193.624, F.S., providing definitions; excluding the value of certain installations made after a specified date from the assessed value of residential real property; providing for application; requiring the filing of applications by specified times in order for such installations to be excluded from the assessed value of residential real property; providing procedural requirements and limitations; requiring a nonrefundable filing fee for a petition to the value adjustment board.

**Section 2.** Amends s. 193.155, F.S., specifying additional exceptions to the assessment of homestead property at just value.

**Section 3.** Amends s. 193.1554, F.S., specifying additional exceptions to assessment of nonhomestead property at just value.

**Section 4.** Amends s. 196.012, F.S., deleting the definitions of "renewable energy source device" and "device."

**Section 5.** Amends s. 196.121, F.S., amending a cross-reference.

**Section 6.** Amends s. 196.1995, F.S., amending cross-references.

**Section 7.** Repeals s. 196.175, F.S., relating to the renewable energy source device property tax exemption.

**Section 8.** Provides an effective date of July 1, 2013, and applies to assessments beginning on January 1, 2014.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The Revenue Estimating Conference estimated, **assuming current millage rates**, that the provisions of the bill will have no impact on local government revenues in FY 2013-14, but will increase each year thereafter reaching an annual impact of -\$12.6 million in FY 2017-18, which is the recurring impact.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The provisions in the bill may result in lower property tax expenses and lower energy costs for taxpayers who make qualifying improvements to residential real property on or after January 1, 2013.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Article VII, section 18, of the Florida Constitution, may apply because this bill reduces local government authority to raise revenue by reducing *ad valorem* tax bases compared to that which would exist under current law. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

Although this bill is implementing a constitutional amendment adopted by Florida voters, the constitutional language is permissive and only authorizes, not requires, the Legislature to act.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 28, 2013, the Finance & Tax Subcommittee adopted a Proposed Committee Substitute that removed all provisions relating to any change or improvement made for the purpose of improving a property's resistance to wind damage and reported the bill out as a committee substitute. The staff analysis has been updated to reflect the committee substitute.

1                                   A bill to be entitled  
 2           An act relating to the assessment of residential and  
 3           nonhomestead real property; creating s. 193.624, F.S.;  
 4           defining the term "renewable energy source device";  
 5           excluding the value of certain installations, changes,  
 6           or improvements made after a specified date from the  
 7           assessed value of residential real property; providing  
 8           for application; requiring the filing of applications  
 9           by specified times in order for such installations,  
 10          changes, or improvements to be excluded from the  
 11          assessed value of residential real property; providing  
 12          procedural requirements and limitations; requiring a  
 13          nonrefundable filing fee for a petition to the value  
 14          adjustment board; amending s. 193.155, F.S.;  
 15          specifying additional exceptions to the assessment of  
 16          homestead property at just value; amending s.  
 17          193.1554, F.S.; specifying additional exceptions to  
 18          assessment of nonhomestead property at just value;  
 19          amending s. 196.012, F.S.; deleting the definition of  
 20          the terms "renewable energy source device" and  
 21          "device"; conforming a cross-reference; amending ss.  
 22          196.121 and 196.1995, F.S.; conforming cross-  
 23          references; repealing s. 196.175, F.S., relating to  
 24          the property tax exemption for renewable energy source  
 25          devices; providing for applicability; providing an  
 26          effective date.

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



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Section 1. Section 193.624, Florida Statutes, is created to read:

193.624 Assessment of residential property.-

(1) As used in this section, the term "renewable energy source device" means any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:

(a) Solar energy collectors, photovoltaic modules, and inverters.

(b) Storage tanks and other storage systems, excluding swimming pools used as storage tanks.

(c) Rockbeds.

(d) Thermostats and other control devices.

(e) Heat exchange devices.

(f) Pumps and fans.

(g) Roof ponds.

(h) Freestanding thermal containers.

(i) Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, such equipment does not include conventional backup systems of any type.

(j) Windmills and wind turbines.

(k) Wind-driven generators.

(l) Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy.

(m) Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal

57 deposit.

58 (2) In determining the assessed value of real property  
 59 used for residential purposes, an increase in the just value of  
 60 the property attributable to the installation of a renewable  
 61 energy source device may not be considered.

62 (3) This section applies to the installation of a  
 63 renewable energy source device installed on or after January 1,  
 64 2013, to new and existing residential real property.

65 (4) For a parcel of residential property to be assessed  
 66 pursuant to this section, the owner of such property must file  
 67 with the county property appraiser an application on or before  
 68 March 1 of the first year such treatment is requested. The  
 69 property appraiser may require the taxpayer or the taxpayer's  
 70 representative to furnish the property appraiser such  
 71 information as may reasonably be required to establish the  
 72 increase in just value attributable to the renewable energy  
 73 source device. Failure to make timely application by March 1  
 74 constitutes a waiver of the property owner to have his or her  
 75 assessment calculated for that year under this section. However,  
 76 an applicant who fails to file an application by March 1 may  
 77 file a late application and may file, pursuant to s. 194.011(3),  
 78 a petition with the value adjustment board requesting assessment  
 79 under this section. The petition must be filed on or before the  
 80 25th day after the mailing of the notice by the property  
 81 appraiser as provided in s. 194.011(1). Notwithstanding s.  
 82 194.013, the applicant must pay a nonrefundable fee of \$15 upon  
 83 filing the petition. Upon reviewing the petition, if the  
 84 property is qualified to be assessed under this section and the

85 property owner demonstrates particular extenuating circumstances  
 86 judged by the property appraiser or the value adjustment board  
 87 to warrant granting assessment under this section, the property  
 88 appraiser shall calculate the assessment pursuant to this  
 89 section.

90 Section 2. Paragraph (a) of subsection (4) of section  
 91 193.155, Florida Statutes, is amended to read:

92 193.155 Homestead assessments.—Homestead property shall be  
 93 assessed at just value as of January 1, 1994. Property receiving  
 94 the homestead exemption after January 1, 1994, shall be assessed  
 95 at just value as of January 1 of the year in which the property  
 96 receives the exemption unless the provisions of subsection (8)  
 97 apply.

98 (4) (a) Except as provided in paragraph (b) and s. 193.624,  
 99 changes, additions, or improvements to homestead property shall  
 100 be assessed at just value as of the first January 1 after the  
 101 changes, additions, or improvements are substantially completed.

102 Section 3. Paragraph (a) of subsection (6) of section  
 103 193.1554, Florida Statutes, is amended to read:

104 193.1554 Assessment of nonhomestead residential property.—

105 (6) (a) Except as provided in paragraph (b) and s. 193.624,  
 106 changes, additions, or improvements to nonhomestead residential  
 107 property shall be assessed at just value as of the first January  
 108 1 after the changes, additions, or improvements are  
 109 substantially completed.

110 Section 4. Subsections (14) through (20) of section  
 111 196.012, Florida Statutes, are amended to read:

112 196.012 Definitions.—For the purpose of this chapter, the

113 following terms are defined as follows, except where the context  
 114 clearly indicates otherwise:

115 ~~(14) "Renewable energy source device" or "device" means~~  
 116 ~~any of the following equipment which, when installed in~~  
 117 ~~connection with a dwelling unit or other structure, collects,~~  
 118 ~~transmits, stores, or uses solar energy, wind energy, or energy~~  
 119 ~~derived from geothermal deposits:~~

120 ~~(a) Solar energy collectors.~~

121 ~~(b) Storage tanks and other storage systems, excluding~~  
 122 ~~swimming pools used as storage tanks.~~

123 ~~(c) Rockbeds.~~

124 ~~(d) Thermostats and other control devices.~~

125 ~~(e) Heat exchange devices.~~

126 ~~(f) Pumps and fans.~~

127 ~~(g) Roof ponds.~~

128 ~~(h) Freestanding thermal containers.~~

129 ~~(i) Pipes, ducts, refrigerant handling systems, and other~~  
 130 ~~equipment used to interconnect such systems; however,~~  
 131 ~~conventional backup systems of any type are not included in this~~  
 132 ~~definition.~~

133 ~~(j) Windmills.~~

134 ~~(k) Wind driven generators.~~

135 ~~(l) Power conditioning and storage devices that use wind~~  
 136 ~~energy to generate electricity or mechanical forms of energy.~~

137 ~~(m) Pipes and other equipment used to transmit hot~~  
 138 ~~geothermal water to a dwelling or structure from a geothermal~~  
 139 ~~deposit.~~

140 (14) ~~(15)~~ "New business" means:

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

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

150 b. Is a target industry business as defined in s.  
 151 288.106(2)(q);

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

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

165 (b) Any business or organization located in an enterprise  
 166 zone or brownfield area that first begins operation on a site  
 167 clearly separate from any other commercial or industrial  
 168 operation owned by the same business or organization.

169 (c) A business or organization that is situated on  
 170 property annexed into a municipality and that, at the time of  
 171 the annexation, is receiving an economic development ad valorem  
 172 tax exemption from the county under s. 196.1995.

173 (15)~~(16)~~ "Expansion of an existing business" means:

174 (a)1. A business or organization establishing 10 or more  
 175 new jobs to employ 10 or more full-time employees in this state,  
 176 paying an average wage for such new jobs that is above the  
 177 average wage in the area, which principally engages in any of  
 178 the operations referred to in subparagraph (15)(a)1.; or

179 2. A business or organization establishing 25 or more new  
 180 jobs to employ 25 or more full-time employees in this state, the  
 181 sales factor of which, as defined by s. 220.15(5), for the  
 182 facility with respect to which it requests an economic  
 183 development ad valorem tax exemption is less than 0.50 for each  
 184 year the exemption is claimed; provided that such business  
 185 increases operations on a site located within the same county,  
 186 municipality, or both colocated with a commercial or industrial  
 187 operation owned by the same business or organization under  
 188 common control with the same business or organization, resulting  
 189 in a net increase in employment of not less than 10 percent or  
 190 an increase in productive output or sales of not less than 10  
 191 percent.

192 (b) Any business or organization located in an enterprise  
 193 zone or brownfield area that increases operations on a site  
 194 located within the same zone or area colocated with a commercial  
 195 or industrial operation owned by the same business or  
 196 organization under common control with the same business or

197 organization.

198 (16)~~(17)~~ "Permanent resident" means a person who has  
 199 established a permanent residence as defined in subsection (17)  
 200 ~~(18)~~.

201 (17)~~(18)~~ "Permanent residence" means that place where a  
 202 person has his or her true, fixed, and permanent home and  
 203 principal establishment to which, whenever absent, he or she has  
 204 the intention of returning. A person may have only one permanent  
 205 residence at a time; and, once a permanent residence is  
 206 established in a foreign state or country, it is presumed to  
 207 continue until the person shows that a change has occurred.

208 (18)~~(19)~~ "Enterprise zone" means an area designated as an  
 209 enterprise zone pursuant to s. 290.0065. This subsection expires  
 210 on the date specified in s. 290.016 for the expiration of the  
 211 Florida Enterprise Zone Act.

212 (19)~~(20)~~ "Ex-servicemember" means any person who has  
 213 served as a member of the United States Armed Forces on active  
 214 duty or state active duty, a member of the Florida National  
 215 Guard, or a member of the United States Reserve Forces.

216 Section 5. Subsection (2) of section 196.121, Florida  
 217 Statutes, is amended to read:

218 196.121 Homestead exemptions; forms.—

219 (2) The forms shall require the taxpayer to furnish  
 220 certain information to the property appraiser for the purpose of  
 221 determining that the taxpayer is a permanent resident as defined  
 222 in s. 196.012(16) ~~196.012(17)~~. Such information may include, but  
 223 need not be limited to, the factors enumerated in s. 196.015.

224 Section 6. Subsections (6) and (8), paragraph (d) of

225 subsection (9), and paragraph (d) of subsection (11) of section  
 226 196.1995, Florida Statutes, are amended to read:

227 196.1995 Economic development ad valorem tax exemption.—

228 (6) With respect to a new business as defined by s.  
 229 196.012(14)(c) ~~196.012(15)(e)~~, the municipality annexing the  
 230 property on which the business is situated may grant an economic  
 231 development ad valorem tax exemption under this section to that  
 232 business for a period that will expire upon the expiration of  
 233 the exemption granted by the county. If the county renews the  
 234 exemption under subsection (7), the municipality may also extend  
 235 its exemption. A municipal economic development ad valorem tax  
 236 exemption granted under this subsection may not extend beyond  
 237 the duration of the county exemption.

238 (8) Any person, firm, or corporation which desires an  
 239 economic development ad valorem tax exemption shall, in the year  
 240 the exemption is desired to take effect, file a written  
 241 application on a form prescribed by the department with the  
 242 board of county commissioners or the governing authority of the  
 243 municipality, or both. The application shall request the  
 244 adoption of an ordinance granting the applicant an exemption  
 245 pursuant to this section and shall include the following  
 246 information:

- 247 (a) The name and location of the new business or the  
 248 expansion of an existing business;
- 249 (b) A description of the improvements to real property for  
 250 which an exemption is requested and the date of commencement of  
 251 construction of such improvements;
- 252 (c) A description of the tangible personal property for



253 | which an exemption is requested and the dates when such property  
 254 | was or is to be purchased;

255 |       (d) Proof, to the satisfaction of the board of county  
 256 | commissioners or the governing authority of the municipality,  
 257 | that the applicant is a new business or an expansion of an  
 258 | existing business, as defined in s. 196.012~~(15)~~ ~~or (16)~~;

259 |       (e) The number of jobs the applicant expects to create  
 260 | along with the average wage of the jobs and whether the jobs are  
 261 | full-time or part-time;

262 |       (f) The expected time schedule for job creation; and

263 |       (g) Other information deemed necessary or appropriate by  
 264 | the department, county, or municipality.

265 |       (9) Before it takes action on the application, the board  
 266 | of county commissioners or the governing authority of the  
 267 | municipality shall deliver a copy of the application to the  
 268 | property appraiser of the county. After careful consideration,  
 269 | the property appraiser shall report the following information to  
 270 | the board of county commissioners or the governing authority of  
 271 | the municipality:

272 |       (d) A determination as to whether the property for which  
 273 | an exemption is requested is to be incorporated into a new  
 274 | business or the expansion of an existing business, as defined in  
 275 | s. 196.012~~(15)~~ ~~or (16)~~, or into neither, which determination the  
 276 | property appraiser shall also affix to the face of the  
 277 | application. Upon the request of the property appraiser, the  
 278 | department shall provide to him or her such information as it  
 279 | may have available to assist in making such determination.

280 |       (11) An ordinance granting an exemption under this section

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281 shall be adopted in the same manner as any other ordinance of  
282 the county or municipality and shall include the following:

283         (d) A finding that the business named in the ordinance  
284 meets the requirements of s. 196.012(14) or (15) ~~196.012 (15) or~~  
285 ~~(16)~~.

286         Section 7. Section 196.175, Florida Statutes, is repealed.

287         Section 8. This act shall take effect July 1, 2013, and  
288 applies to assessments beginning January 1, 2014.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/CS/HB 343 Wrap-Up Insurance Policies  
**SPONSOR(S):** Government Operations Appropriations Subcommittee; Insurance & Banking Subcommittee; Hager  
**TIED BILLS:** IDEN./SIM. BILLS: CS/CS/SB 810

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	12 Y, 1 N, As CS	Reilly	Cooper
2) Government Operations Appropriations Subcommittee	13 Y, 0 N, As CS	Keith	Topp
3) Regulatory Affairs Committee		Reilly <i>RJR</i>	Hamon <i>K.W.H.</i>

**SUMMARY ANALYSIS**

CS/CS/HB 343 creates s. 627.4138, F.S., relating to wrap-up insurance policies for nonpublic construction projects. Under wrap-up insurance, utilized in large construction projects, one party (the project owner or the general contractor) purchases insurance coverage that applies to all parties performing work on the project. Wrap-up insurance typically includes workers' compensation, general liability, and other coverages. Advantages of wrap-up policies include significant savings in premium costs and elimination of gaps in coverage.

For employers with a minimum workers' compensation standard premium of \$500,000, an insurance policy may include a large deductible program (a deductible of \$100,000 or more per workers' compensation claim). Under such programs, the carrier is obligated to pay the claim from the first dollar. The insured (the employer) then reimburses the carrier, per claim, for losses paid within the large deductible. The Office of Insurance Regulation (OIR) reports that the typical large deductible policy will have a deductible credit that can range from 30 to 90%, significantly lowering premiums paid.

The bill authorizes wrap-up policies for nonpublic construction projects with an estimated total cost of \$25 million or more at each specified contracted work site to include large deductibles for workers' compensation claims when the combined workers' compensation standard premium for all covered entities, when added together, exceeds \$500,000. It also requires the insurer to have an established program for having the first named insured (the owner of the project or the general contractor) reimburse the insurer for losses paid within the deductible. The bill incorporates into Florida law many of the requirements of Administrative Rule 690-189.006, F.A.C., for large deductible workers' compensation filings, including the following:

- The insurer is obligated to pay first dollar of all claims.
- Reimbursement of the deductible by the insured does not affect the insurer's obligation to pay claims.
- The insurer complies with all filing requirements of the Department of Financial Services (DFS), and files all required data with the National Council on Compensation Insurance.

The bill will have a positive fiscal impact on project owners and general contractors that purchase wrap-up insurance with large deductible programs.

The DFS indicates that the bill has an insignificant fiscal impact on revenues deposited into the Workers' Compensation Special Disability Trust Fund (SDTF). Provisions of the bill will likely affect premiums of the SDTF because rates are based upon the premium after the application of deductible credits.

The bill is effective July 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background on Workers' Compensation**

##### **Wrap-Up Insurance Policies**

For large construction projects, project owners, contractors, and subcontractors have traditionally purchased insurance independently to protect themselves against financial losses related to the project. The contractors' costs of insurance would be included in their bids and thus would be paid by the project owner as part of the contract. Under this traditional insurance arrangement, the contractors could receive rebates from their insurers based on the contractor's safety record. In addition, some project owners would provide contractors with good safety records with additional bonuses. As the contractors' costs of insurance were paid by the project owner as part of the contract, subsequent rebates received by the contractors from their insurers have generated additional profits for the contractor.

In contrast to the traditional arrangement, consolidated insurance programs, often referred to as "wrap-up" insurance, are offered in the insurance market for large construction projects. Wrap-up insurance is a program or series of insurance policies purchased by one party (e.g., the project owner or general contractor) to cover itself and all of its subordinate contractors and subcontractors for operations at a specific project site. Unlike traditional insurance in which each party purchases its own coverage, under wrap-up insurance, one party is responsible for purchasing insurance coverage that applies to all parties performing work on the project under contract. Among other coverages, wrap-up policies typically include workers' compensation and general liability coverage.

Wrap-up policies are commonly characterized by one of two types of consolidated insurance programs. In an owner-controlled program (OCIP),<sup>1</sup> the project owner purchases insurance to cover itself and all of its contractors and subcontractors. In a contractor-controlled insurance program (CCIP), the general contractor purchases coverage for itself and each of its subcontractors. In contrast to traditional insurance, the project owner pays the insurance premiums under an OCIP and receives the rebates from the insurer based on the project's safety record.

In 1999, the U.S. General Accounting Office (GAO) published a report analyzing the advantages and disadvantages of wrap-up insurance for large construction projects.<sup>2</sup> Based on an analysis of six large transportation projects, the report identified the following advantages and disadvantages of wrap-up policies.

##### **Advantages**

- Significant cost savings on the cost of traditional insurance, attributable to an owner's bulk-purchasing power and economies of scale. The GAO noted that large, labor-intensive projects would be in a better position to obtain wrap-up insurance.
- Eliminates duplication and overlap in coverage which may occur because the contractors and subcontractors are insuring themselves against the same accidents, even though they may not

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<sup>1</sup> Section 255.0517, F.S., specifies conditions under which state agencies, political subdivisions, state universities, community colleges, airport authorities or other public agencies may purchase OCIPs in connection with public construction projects. OCIPs may only be purchased for public construction projects with an estimated total cost of (a) at least \$75 million; (b) at least \$30 million if the project is for the construction or renovation of two or more public schools during a fiscal year, or (c) at least \$10 million if the project is for construction or renovation of one public school.

<sup>2</sup> U.S. General Accounting Office, "Transportation Infrastructure: Advantages and Disadvantages of Wrap-Up Insurance for Large Construction Projects," Report No. GAO/RCED-99-155 (June 1999). Available at <http://www.gao.gov> (last accessed: April 3, 2013).

be liable for the resulting claims. With wrap-up insurance, gaps in coverage and the resulting uninsured claims can be avoided.

- Provides for more efficient claims handling processes and less litigation since a single insurer is used for reporting claims, conducting investigations, settling claims, and providing for payment of claims.
- Facilitates comprehensive safety programs. The GAO notes that a significant portion of the potential savings from wrap-up insurance derives from a well-managed centralized safety program that results in fewer injuries.

### **Disadvantages**

- Increased administrative costs. Additional resources related to emphasizing job safety, controlling losses, and managing claims were noted. Some project owners outsource these administrative functions to insurance brokers or agents, while others perform some or all of the functions with their staffs.
- Potentially requires owners to make large premium payments at the start of a construction project and to establish a special reserve in order to ensure that funds are available to pay deductible requirements on claims.

### **Workers' Compensation Insurance Policies with Large Deductibles**

In the early 1990s, insurers approached the Department of Insurance [the predecessor to the Office of Insurance Regulation (OIR)] about filing a workers' compensation rating plan for large employers (defined as having \$500,000 in standard premium) that would be more flexible in how premium would be determined. The justification for the flexibility was based on the following general concepts:

- The rating plan would be used only for very large employers. These employers would generally be eligible to be individually self-insured.
- Rating is similar to rating for excess insurance that is purchased by individual self-insureds.
- The minimum deductible is \$100,000 and could be in the millions. Thus, the employer would be responsible for the vast majority of claims.

These type plans with restrictions were ultimately approved and incorporated in Administrative Rule 69O-186.006, F.A.C. (formerly 4-189.006).<sup>3</sup> The administrative rule establishes guidelines for large deductible (a deductible of \$100,000 or more per claim) workers' compensation filings. In order to qualify for a large deductible policy, an employer must have a workers' compensation standard premium of at least \$500,000.<sup>4</sup>

Under large deductible programs, the carrier is obligated to pay the claim from the first dollar, as though there were no deductible. The insured (the employer) then reimburses the workers' compensation carrier, for each claim, for losses paid within the deductible. The OIR reports that the typical large deductible policy will have a deductible credit that can range from 30 to 90%. Thus, the premiums paid by employers and reported by insurers will be a fraction of premiums paid for other rating plans. An ancillary effect of large deductibles has been the movement for very large employers to cease being individually self-insured and to buy an insurance policy from an insurance company with a large deductible program.

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<sup>3</sup> See "2012 Workers' Compensation Annual Report" (December 2012) by the Florida Office of Insurance Regulation. Available at <http://www.flor.com> (last accessed: April 3, 2013).

<sup>4</sup> Before the availability of large deductible programs, retrospective rating plans were the dominant rating plan for large employers. Under a retrospective rating plan, the final premium paid by the employer is based on the actual loss experience of the employer during the policy, plus insurer expenses and an insurance charge. If the employer controls the amount of claims, it pays lower premiums.

The OIR notes that in recent insolvencies there have been problems with large deductible policies and the lack of collectible collateral. This will result in the Florida Workers' Compensation Insurance Guaranty Association (FWCIGA)<sup>5</sup> paying over \$50 million that will ultimately be assessed to all workers' compensation policyholders in Florida.<sup>6</sup>

### **Limited Availability of Wrap-Up Policies with Large Deductibles**

Though remote, the possibility currently exists that a Florida wrap-up policy for a nonpublic construction project could provide for a large deductible for workers' compensation claims. Among the criteria to be met would be that each entity covered under the wrap-up policy have a minimum workers' compensation standard premium of \$500,000.<sup>7</sup> Satisfaction of this requirement would likely be rare, as every entity on a construction project would need to be an extremely large employer and small subcontractors would be excluded. Staff is not aware of any wrap-up policy with a large deductible for workers' compensation claims that has been issued for a nonpublic construction project in Florida.

### **Effect of the bill**

The bill creates s. 627.4138, F.S., relating to wrap-up insurance policies for nonpublic construction projects. The bill authorizes wrap-up policies for nonpublic construction projects with an estimated total cost of at least \$25 million at each specified contracted work site to include large deductibles for workers' compensation claims (a deductible of \$100,000 or more per claim) when the combined workers' compensation standard premium for all covered entities exceeds \$500,000. The bill also requires the insurer to have an established program for having the first named insured (the owner of the project or the general contractor) reimburse the insurer for losses paid within the deductible. The bill incorporates into Florida statutes many of the requirements of Administrative Rule 69O-189.006, F.A.C., for large deductible workers' compensation filings, namely that:

- The insurer is obligated to pay first dollar of a claim as any other workers' compensation policy without a deductible.
- Reimbursement of the deductible by the insured does not affect the insurer's obligation to pay claims.
- The insurer complies with all filing requirements of the Department of Financial Services under the workers' compensation law for all losses, including those below the deductible limit.
- The insurer files unit statistical reports with the National Council on Compensation Insurance (NCCI) that show all losses, including those below the deductible limit.
- The insurer files with the NCCI the unit statistical reports necessary for calculation of an experience modification factor.
- The insurer complies with NCCI aggregate financial calls, detail claim information calls, unit statistical reporting, and other required calls.

The bill also defines the following terms: specified contracted work site (construction being performed during one or more policy years at one site or multiple sites of the same construction project) and wrap-up insurance policy (policies issued to the nonpublic owner or the general contractor of a construction project through a consolidated insurance program which may provide general liability, property damage liability, workers' compensation, employers' liability, or pollution liability insurance

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<sup>5</sup> FWCIGA's purpose is to provide a mechanism for the payment of covered claims, to avoid excessive delay in payment, and to avoid financial loss to claimants in the event of the insolvency of a member insurer. See <http://www.fwciga.org> (last accessed: April 3, 2013).

<sup>6</sup> For additional discussion on employer and insurer solvency concerns and large deductible policies see "Workers' Compensation Large Deductible Study," NAIC/IAIABC Joint Working Group Study (March 2006). Available at [http://www.naic.org/store\\_pub\\_whitepapers.htm](http://www.naic.org/store_pub_whitepapers.htm) (last accessed: April 3, 2013).

<sup>7</sup> See, e.g., Rule 69O-186.006, F.A.C.

coverage, or a combination of such coverages for the contractors and subcontractors working at a specified contracted work site of the construction project).

**B. SECTION DIRECTORY:**

**Section 1.** Creates s. 627.4138, F.S., relating to wrap-up insurance policies for nonpublic construction projects.

**Section 2.** Provides an effective date of July 1, 2013.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

See Fiscal Comments.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The OIR reports that the bill will increase costs to subcontractors that will be required to participate in a large deductible wrap-up policy. To the extent that the bill increases the use of large deductible policies, the amount of premiums paid to insurers will decrease. Thus, the premiums reported by insurers to the state for assessment purposes will also decrease.

It is unclear whether the savings in premiums resulting from the use of large deductibles will be realized by subcontractors covered under a wrap-up policy or be retained by the owner or general contractor that has purchased the wrap-up policy.

**D. FISCAL COMMENTS:**

The Department of Financial Services (DFS) indicates that the bill has an insignificant fiscal impact on revenues deposited into the Workers' Compensation Special Disability Trust Fund (SDTF). Currently, the SDTF assessment rate is 1.43% of net premiums. Provisions of the bill would allow for the assessment of rates to the SDTF after a large deductible is applied, thus reducing the amount of the assessment base and impacting revenue collections. Should revenues decline, the Chief Financial Officer has the authority to increase the assessment rate in order to offset any loss in revenue<sup>8</sup>. DFS indicates that impacts of the bill will be insignificant and would only affect the SDTF premium base, and that the SDTF is more sensitive to expenditures rather than minor fluctuations of the premium base.<sup>9</sup>

<sup>8</sup> Section 440.49(9), F.S.

<sup>9</sup> E-mail correspondence from DFS dated March 4, 2013 on file with staff of the Insurance & Banking Subcommittee.



### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or, reduce the percentage of a state tax shared with counties or municipalities.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 19, 2013, the Insurance & Banking Subcommittee considered and adopted a strike-all amendment to the bill. The amendment conformed the bill to the Senate companion (SB 810), retained all provisions of the House bill, and made the following changes:

- Clarified that wrap-up insurance means insurance "policies" issued "through a consolidated insurance program," and is not a single policy that provides coverages across various lines of insurance.
- Limited eligibility for large deductible programs on wrap-up insurance policies on nonpublic construction projects to construction projects with a total estimated cost of at least \$25 million.
- Required the first named insured (the owner of the project or the general contractor) to reimburse the insurer for losses paid within the large deductible.

On April 2, 2013, the Government Operations Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Clarifies that the estimated cost of construction to be performed is for each specified contracted work site of a construction project that is \$25 million or more.

This analysis is drafted to the committee substitute as passed by the Government Operations Appropriations Subcommittee.

1                                   A bill to be entitled  
 2           An act relating to wrap-up insurance policies;  
 3           creating s. 627.4138, F.S.; providing definitions;  
 4           providing that wrap-up insurance policies may include  
 5           workers' compensation claim deductibles equal to or  
 6           greater than a specified amount if specified standards  
 7           are met; providing an effective date.

8

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

10

11           Section 1.   Section 627.4138, Florida Statutes, is created  
 12   to read:

13           627.4138   Wrap-up insurance policies for nonpublic  
 14   construction projects.-

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

16           (a)   "Specified contracted work site" means construction  
 17   being performed during one or more policy years at one site or  
 18   multiple sites of the same construction project.

19           (b)   "Wrap-up insurance policy" means policies issued to  
 20   the nonpublic owner or the general contractor of a construction  
 21   project through a consolidated insurance program which may  
 22   provide general liability, property damage liability, workers'  
 23   compensation, employers' liability, or pollution liability  
 24   insurance coverage or a combination of such coverages for the  
 25   contractors and subcontractors working at a specified contracted  
 26   work site of the construction project.

27           (2)   A wrap-up insurance policy may include a deductible of  
 28   \$100,000 or more for workers' compensation claims if:

29        (a) The workers' compensation minimum standard premium  
 30        calculated on the combined payrolls for all entities covered by  
 31        the policy exceeds \$500,000;

32        (b) The estimated cost of the construction to be performed  
 33        at each specified contracted work site of a construction project  
 34        is \$25 million or more;

35        (c) The insurer is obligated to pay the first dollar of a  
 36        claim like any other workers' compensation policy without a  
 37        deductible;

38        (d) The reimbursement of the deductible by the insured  
 39        does not affect the insurer's obligation to pay claims;

40        (e) The insurer complies with all the filing requirements  
 41        of the Department of Financial Services under chapter 440 for  
 42        all losses, including those below the deductible limit;

43        (f) The insurer files unit statistical reports with the  
 44        National Council on Compensation Insurance which show all  
 45        losses, including those below the deductible limit;

46        (g) The unit statistical reports necessary for the  
 47        calculation of an experience modification factor for the insured  
 48        are filed with the National Council on Compensation Insurance;

49        (h) The insurer complies with the National Council on  
 50        Compensation Insurance aggregate financial calls, detail claim  
 51        information calls, unit statistical reporting, and other  
 52        required calls; and

53        (i) The insurer has an established program for having the  
 54        first-named insured reimburse the insurer for losses paid within  
 55        the deductible.

56        Section 2. This act shall take effect July 1, 2013.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 347 Distilled Spirits  
**SPONSOR(S):** Business & Professional Regulation Subcommittee; Renuart and others  
**TIED BILLS:** IDEN./SIM. BILLS: CS/SB 642

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professional Regulation Subcommittee	11 Y, 0 N, As CS	Livingston	Luczynski
2) Government Operations Appropriations Subcommittee	13 Y, 0 N	Topp	Topp
3) Regulatory Affairs Committee		Livingston <i>[Signature]</i>	Hamon <i>[Signature]</i>

### SUMMARY ANALYSIS

Florida's alcoholic beverage law provides for a structured three-tiered distribution system: manufacturer, distributor (wholesaler), and vendor (retailer). The Division of Alcoholic Beverages and Tobacco in the Department of Business and Professional Regulation (DBPR) is responsible for enforcing the provisions of the beverages laws.

The bill defines a "craft distillery" to mean a licensed distillery that produces 75,000 or fewer gallons of distilled spirits on its premises. The bill allows a liquor manufacturer that meets the requirements of a craft distillery to sell two sealed containers per year of the distilled spirits it produces on its premises, to a consumer, for off premises consumption. The bill requires that sales of the spirits be made on "private property" contiguous to the distillery premises.

Once a craft distillery's production limitations have been surpassed (i.e., 75,000 gallons), the bill requires the craft distillery to notify the division within five days and immediately cease retail sales to consumers.

The bill provides that a craft distillery may not have its ownership affiliated with another distillery, unless the distillery produces 75,000 or fewer gallons of distilled spirits per calendar year on its premises.

The bill specifies that the provisions of the bill are nonseverable.

The DBPR indicates that any fiscal impact as a result of this bill is insignificant and can be covered within existing resources.

The bill has an effective date of July 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present situation

The Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation (DBPR) is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of alcoholic beverages. Florida's alcoholic beverage law provides for a structured three-tiered distribution system: manufacturer, distributor (wholesaler), and vendor (retailer). The retailer makes the ultimate sale to the consumer. Alcoholic beverage excise taxes are collected at the wholesale level based on inventory depletions and the state sales tax is collected at the retail level.

There are some exceptions to this regulatory system. The exceptions include allowing a vendor license to be issued to a manufacturer of malt beverages for the sale of alcoholic beverages on property that includes a brewery and promotes tourism<sup>1</sup> and beer brew pubs to manufacture malt beverages and to sell them to consumers for consumption on the premises.<sup>2</sup> An exception is also allowed for in-state wineries to manufacture and sell directly to consumers.<sup>3</sup>

Chapters 561-565 and 567-568, F.S., comprise Florida's beverage law. The provisions of the bill relate to ch. 565, F.S., relating to "Liquor." Section 565.01, F.S., provides a definition for purposes of the beverage law and states:

565.01 Definition; liquor.--The words "liquor," "distilled spirits," "spirituous liquors," "spirituous beverages," or "distilled spirituous liquors" mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.

"Manufacturer" is defined to mean all persons who make alcoholic beverages except those who make beer or wine for personal or family consumption.<sup>4</sup> "Distillery" or "distiller" is not specifically defined in statute or division rule.

##### Effect of proposed changes

The bill creates two definitions in s. 565.03, F.S.

- "Distillery" is defined to mean a manufacturer, of distilled spirits; and
- "Craft Distillery" is defined as a licensed distillery that produces 75,000 or fewer gallons of distilled spirits on its premises and notifies the division of the desire to operate as a craft distillery.

The bill allows a craft distillery, as defined by the bill, to sell the distilled spirits it produces to consumers for off premise consumption. The bill requires that sales of the spirits be made on "private property" contiguous to the distillery premises at a souvenir gift shop operated by the manufacturer and included on the sketch submitted with the license application. The bill further requires that the division must approve any subsequent "revisions" to a craft distillery's sketch, verifying that the location operated by

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<sup>1</sup> See s. 561.221(2), F.S.

<sup>2</sup> See s 561.221(3), F.S., which permits the limited manufacture of beer by vendors known as brew pubs.

<sup>3</sup> See s. 561.221(1), F.S.

<sup>4</sup> See s. 561.01(7), F.S.

the distillery are owned or leased by the distillery and on property contiguous to the distillery's production building.

Once a craft distillery's production limitations have been surpassed (i.e., 75,000 gallons), the bill mandates that the craft distillery notify the division within five days and immediately cease sales to consumers.

The bill prohibits distilleries from selling distilled spirits except in face-to-face transactions with consumers making the purchases for personal use and caps the total sales to each consumer to two or less containers per customer per year. In addition, the craft distilleries are prohibited from shipping their distilled spirits to consumers, although they are authorized to deliver them to manufacturers, distributors, bonded warehouses, and exporters.

The bill provides that a craft distillery may not have its ownership affiliated with another distillery, unless the distillery produces 75,000 or fewer gallons of distilled spirits per calendar year on its premises.

The bill specifies that each craft distillery responsible for submitting any beverages excise taxes under the Beverage Law in its monthly report to the division with any excise tax payments due to the state.

The bill specifies that the provisions of the bill are nonseverable.

**B. SECTION DIRECTORY:**

Section 1 amends s. 565.03, F.S., to allow craft distilleries (producing less than 75,000 gallons of distilled spirits) to sell their products to consumers in face-to-face transactions on premises contiguous to the distillery's premises.

Section 2 provides that the provisions of the bill are nonseverable.

Section 3 provides for an effective date of July 1, 2013.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The fiscal impact of this bill is insignificant. The DBPR indicates that any additional workload or expenditures as a result of this bill could be absorbed within existing resources.<sup>5</sup>

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

<sup>5</sup> Updated fiscal impact of the CS/HB 347, per e-mail communication between DBPR and staff of the Government Operations Appropriations Subcommittee, March 26, 2013, on file with the Government Operations Appropriations Subcommittee.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The division notes that there would be a benefit to the distilleries being able to sell directly to the consumer, which would provide another source of revenue.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

The bill specifically authorizes DBPR to adopt rules relating to the provisions of the bill.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 20, 2013, the Business & Professional Regulation Subcommittee considered a strike-all amendment and two amendments to the strike-all amendment and reported the bill favorably with a committee substitute.

The committee substitute made the following changes to the filed version of the bill:

- Removed reference to rectifier, blender, or processor of distilled spirits as a part of the definition of distillery.
- Removed provisions which specified that the Beverage Law does not prohibit:
  - A licensed distillery owning 100% of a vendor's license,
  - A licensed distillery transporting its distilled spirits to a vendor's licensed premises;
  - A distillery also licensed as a vendor purchasing alcoholic beverage products directly from the distillery.
- Limited the total sales to each consumer to two or less containers per customer per year.
- Provided that a craft distillery may not have its ownership affiliated with another distillery, unless the distillery produces 75,000 or fewer gallons of distilled spirits per calendar year on its premises
- Provided a nonseverability clause.

The staff analysis is drafted to reflect the committee substitute.



1                   A bill to be entitled  
 2           An act relating to distilled spirits; amending s.  
 3           565.03, F.S.; providing definitions; revising  
 4           provisions with respect to the licensure and operation  
 5           of distilleries; providing requirements for craft  
 6           distilleries; providing for the sale of distilled  
 7           spirits by licensed distilleries under certain  
 8           conditions; providing reporting requirements;  
 9           prohibiting the shipment of certain distilled spirits;  
 10          prohibiting the transfer of a distillery license under  
 11          certain conditions; prohibiting a craft distillery  
 12          from having its ownership affiliated with another  
 13          distillery under certain conditions; providing  
 14          requirements relating to the payment of taxes;  
 15          providing for applicability; providing rulemaking  
 16          authority; providing for nonseverability; providing an  
 17          effective date.

18  
 19   Be It Enacted by the Legislature of the State of Florida:

20  
 21           Section 1. Section 565.03, Florida Statutes, is amended to  
 22   read:

23           565.03 License fees; manufacturers, distributors, brokers,  
 24   sales agents, and importers of alcoholic beverages; vendor  
 25   licenses and fees; craft distilleries.—

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

27           (a) "Craft distillery" means a licensed distillery that  
 28   produces 75,000 or fewer gallons per calendar year of distilled

29 | spirits on its premises and has notified the division in writing  
 30 | of its decision to qualify as a craft distillery.

31 | (b) "Distillery" means a ~~Each liquor~~ manufacturer of  
 32 | distilled spirits.

33 | (2) (a) A distillery authorized to do business under the  
 34 | Beverage Law shall pay an annual state license tax for each  
 35 | plant or branch operating ~~he or she operates~~ in the state, as  
 36 | follows:

37 | 1. If engaged in the business of manufacturing distilled  
 38 | spirits ~~distilling spirituous liquors and nothing else~~, a state  
 39 | license tax of \$4,000.

40 | 2. If engaged in the business of rectifying and blending  
 41 | spirituous liquors and nothing else, a state license tax of  
 42 | \$4,000.

43 | (b) Persons licensed under this section who are hereunder  
 44 | in the business of distilling spirituous liquors may also engage  
 45 | in the business of rectifying and blending spirituous liquors  
 46 | without the payment of an additional license tax.

47 | (c) A craft distillery licensed under this section may  
 48 | sell distilled spirits, produced on its premises in this state  
 49 | to consumers in factory-sealed containers for off-premises  
 50 | consumption, at its souvenir gift shop. Such sales are  
 51 | authorized only on private property contiguous to the licensed  
 52 | distillery premises in this state and included on the sketch or  
 53 | diagram defining the licensed premises submitted with the  
 54 | distillery's license application. All sketch or diagram  
 55 | revisions by the distillery shall require the division's  
 56 | approval verifying that the souvenir gift shop location operated

57 by the licensed distillery are owned or leased by the distillery  
 58 and on property contiguous to the distillery's production  
 59 building in this state. A craft distillery or licensed  
 60 distillery may not sell any factory-sealed individual containers  
 61 of spirits except in face-to-face sales transactions with  
 62 consumers who are making a purchase of two or fewer individual  
 63 containers, that comply with the container limits in s. 565.10,  
 64 per calendar year for the consumer's personal use and not for  
 65 resale and who are present at the distillery's licensed premises  
 66 in this state.

67 1. A craft distillery must report to the division within 5  
 68 days after it reaches the production limitations provided in  
 69 paragraph (1)(a). Any retail sales to consumers at the craft  
 70 distillery's licensed premises are prohibited beginning the day  
 71 after it reaches the production limitation.

72 2. A craft distillery may only ship, arrange to ship, or  
 73 deliver any of its distilled spirits to consumers within the  
 74 state in a face-to-face transaction at the distillery property.  
 75 However, a craft distiller licensed under this section may ship,  
 76 arrange to ship, or deliver such spirits to manufacturers of  
 77 distilled spirits, wholesale distributors of distilled spirits,  
 78 state or federal bonded warehouses, and exporters.

79 3. Except as provided in subparagraph 4., it is unlawful  
 80 to transfer a distillery license for a distillery that produces  
 81 75,000 or fewer gallons per calendar year of distilled spirits  
 82 on its premises or any ownership interest in such license to an  
 83 individual or entity that has a direct or indirect ownership  
 84 interest in any distillery licensed in this state; another

85 state, territory, or country; or by the United States government  
 86 to manufacture, blend, or rectify distilled spirits for beverage  
 87 purposes.

88 4. A craft distillery shall not have its ownership  
 89 affiliated with another distillery, unless such distillery  
 90 produces 75,000 or fewer gallons per calendar year of distilled  
 91 spirits on its premises.

92 (3)(2) Distributors authorized to do business under the  
 93 Beverage Law, unless otherwise provided, shall pay a state  
 94 license tax of \$4,000 for each and every establishment or branch  
 95 they may operate or conduct in the state. However, in counties  
 96 having a population of 15,000 or less according to the latest  
 97 state or federal census, the state license tax for a restricted  
 98 license shall be \$1,000, but the holder of such a license shall  
 99 be permitted to sell only to vendors and distributors licensed  
 100 in the same county, and such license shall contain such  
 101 restrictions. In such counties, licenses without such  
 102 restrictions may be obtained as in other counties, but the tax  
 103 for a license without such restrictions shall be the same as in  
 104 other counties. Warehouses of a licensed distributor used solely  
 105 for storage and located in the county in which the license is  
 106 issued to such distributor shall not be construed to be separate  
 107 establishments or branches.

108 (4)(3) Each broker or sales agent and each importer of  
 109 alcoholic beverages, as defined in s. 561.14(4) and (5),  
 110 respectively, shall pay an annual state license tax of \$500.

111 (5) A craft distillery making sales under paragraph (2)(c)  
 112 is responsible for submitting any beverages excise taxes under

113 the Beverage Law in its monthly report to the division with any  
 114 tax payments due to the state.

115 (6) The division may adopt rules to administer this  
 116 section.

117 Section 2. The Legislature declares that it would not have  
 118 enacted any of the provisions of this act individually and  
 119 expressly finds them not to be severable. If a court of  
 120 competent jurisdiction determines any provision of this act to  
 121 be in conflict with any law of this state, a federal law or  
 122 regulation, the State Constitution, or the United States  
 123 Constitution, or otherwise invalid for any reason, it is the  
 124 intent of the Legislature that all of the provisions of this act  
 125 are void, that such invalidity voids only the changes made by  
 126 this act, and that no other provision of law shall be affected.

127 Section 3. This act shall take effect July 1, 2013.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 383 Interstate Insurance Product Regulation Compact  
**SPONSOR(S):** Insurance & Banking Subcommittee; Hudson and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 242

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	13 Y, 0 N, As CS	Reilly	Cooper
2) Government Operations Subcommittee	10 Y, 0 N	Williamson	Williamson
3) Government Operations Appropriations Subcommittee	12 Y, 0 N	Keith	Topp
4) Regulatory Affairs Committee		Reilly <i>RJA</i>	Hamon <i>K.W.H.</i>

**SUMMARY ANALYSIS**

CS/HB 383 enacts into Florida law the Interstate Insurance Product Regulation Compact (the Compact), model legislation adopted by the National Association of Insurance Commissioners. The Compact provides for the development of uniform national standards for life insurance, annuity, disability income insurance, and long-term care products (including rate filings for the latter two insurance products) and application of these standards to insurer filings. A filing approved through the Compact is effective in all compacting states in which the insurer is authorized to write that line of business. Currently, 40 states (and the Commonwealth of Puerto Rico), representing approximately two-thirds of premium volume nationwide, have enacted the Compact. Insurers, however, have the option of filing with individuals states, rather than utilizing the Compact.

Under the bill, Florida:

- Opts out of all uniform standards (current standards and those subsequently adopted) related to long-term care insurance.
- Adopts uniform standards for all other covered products adopted under the Compact as of March 1, 2013.
- Opts out of uniform standards adopted under the Compact after March 1, 2013 and amendments to existing uniform standards adopted after this date that substantially alter or add to existing uniform standards. However, the Florida Legislature may subsequently enact such standards and amendments into law.

The Compact is implemented through the Interstate Insurance Product Regulation Commission (the Commission), which has the authority to adopt rules and uniform standards; prescribe bylaws; and borrow money. The Commission is authorized to protect certain information from disclosure and close meetings in whole or in part. However, the bill does not abrogate a person's right to access information under Florida law.

Article II, s. 3 of the Florida Constitution provides for separation of powers among the executive, legislative, and judicial branches. This provision has been interpreted to preclude legislative adoption of rules not yet promulgated by federal administrative bodies; such action being held an impermissible delegation of legislative authority. Under the bill, Florida prospectively opts out of subsequently adopted uniform standards and subsequently adopted amendments to existing standards that substantially alter or add to such standards:

The bill will have a positive fiscal impact on the private sector, as insurers may submit a single filing to the Commission, rather than making separate filings in each state in which they are authorized to do business. There is minimal fiscal impact on state government.

The bill is effective October 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Regulatory Review of Insurer Filings<sup>1</sup>**

The Office of Insurance Regulation (OIR) reviews and approves insurance product forms and rates in Florida. Form filings include policy forms (contracts), which include new products, and may in some product lines include applications and marketing materials. Rate filings are requests from an insurer to increase, decrease, or maintain current rates associated with specific policy forms. Policy forms and rates are reviewed to determine compliance with Florida law and to ensure that the products are offered at a fair and adequate price, that premiums are reasonable in relation to the benefits they provide, and that they do not unfairly discriminate against segments of the public.

##### **The Interstate Insurance Product Regulation Compact<sup>2</sup>**

###### **Background**

In 2002, a working group of the National Association of Insurance Commissioners (NAIC) adopted the initial Interstate Insurance Compact Model (the Compact) to modernize state insurance regulation. The current version of the Compact includes amendments that were adopted in 2003. The Compact is designed to increase speed to market while retaining consumer protections relating to life insurance, annuity, disability income insurance, and long-term care insurance products. It also permits insurers and third-party filers to submit rate filings for disability income and long-term care insurance products.

Changes in the financial services marketplace have resulted in the previously mentioned insurance products competing directly with other retirement and estate planning instruments sold by banks and security firms. The Compact provides compacting states with the ability to develop uniform national product standards for these insurance products; establish a central point of filing; and thoroughly review filings and make regulatory decisions according to uniform product standards. A filing approved by the Interstate Insurance Product Regulation Commission, i.e., that satisfies uniform standards, is effective in all compacting states in which the insurer is authorized to write that particular line of business without further regulatory review. Currently, 40 states (and the Commonwealth of Puerto Rico),<sup>3</sup> representing approximately two-thirds of premium volume nationwide, have enacted the Compact.

###### **Overview**

The Compact is implemented through the Interstate Insurance Product Regulation Commission (the Commission), a multi-state public entity. Each compacting state is represented by one member, each with one vote. Florida's Insurance Commissioner, or the Commissioner's designee, will serve as the state's representative on the Commission. The Commission came into existence in 2004 upon legislative enactment in Colorado and Utah and satisfied requirements to become operational in 2006.<sup>4</sup>

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<sup>1</sup> See "Office of Insurance Regulation, 2010 Transition Manual" (December 2010). Available at <http://www.floridair.com/> (last accessed: April 3, 2013).

<sup>2</sup> Background information available at the Interstate Insurance Product Regulation Commission's website, <http://insurancecompact.org/> (last accessed: April 3, 2013).

<sup>3</sup> Alabama, Alaska, Colorado, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. The Commonwealth of Puerto Rico is also a Commission member.

<sup>4</sup> The Commission would become operational when either 26 states had joined the Compact or compacting states represented more than 40% of nationwide premium volume.



The Commission's affairs are governed by a management committee, comprised of up to 14 members, as follows:

- One member from each of the six compacting states with the largest premium volume for products covered by the Compact, as determined from NAIC records for the prior year.
- Four members from compacting states with at least 2% of the market based on premium volume for covered products, which are selected on a rotating basis.
- Four members from compacting states with less than 2% of the market, based on premium volume for covered products, one from each of the NAIC's four zone regions.

A management committee establishes and oversees the Commission's organizational structure, and, upon a two-thirds vote of committee members, is authorized to submit proposed uniform standards to compacting states for adoption.

The Compact further provides for a legislative committee, comprised of state legislators or their designees, and two advisory committees (whose members are consumer and insurance industry representatives, respectively). The legislative committee monitors and makes recommendations to the Commission.

### **Authority of the Commission**

The Commission is authorized to:

- Adopt rules and establish reasonable uniform standards for covered products and related advertisements, which have the force and effect of law and are binding in the compacting states to the extent provided in the Compact.
- Receive and review, in an expeditious manner, product filings for covered products and rate filings for disability income and long-term care insurance products. Commission approval of a filing has the force and effect of law and is binding in the compacting states to the extent provided in the Compact.
- Adopt operating procedures, which are binding in the compacting states to the extent provided in the Compact.
- Issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence.
- Establish and maintain offices.
- Purchase and maintain insurance and bonds.
- Borrow, accept, or contract for services of personnel, including employees of a compacting state. Any such action with respect to employees of the State of Florida requires the express written consent of the state.
- Hire employees, professionals, and specialists, and elect or appoint officers.
- Accept appropriate donations and grants, avoiding the appearance of impropriety.
- Establish a budget,<sup>5</sup> make expenditures, and remit filing fees<sup>6</sup> to compacting states.
- Enforce compliance by compacting states with rules, uniform standards, operating procedures, and bylaws.
- Borrow money, provided that this power does not, in any manner, obligate the financial resources of Florida.

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<sup>5</sup> The Compact's operating revenue is based on an annual registration fee and a per filing fee (discussed in footnote 6). The registration fee is \$5,000 per company (insurers and third-party filers) or \$2,500 (for companies with less than \$50 million in premium volume and/or that file in 12 or fewer compacting states). The filing fee is prorated for companies that register after July 1<sup>st</sup>. Correspondence from the Interstate Insurance Product Regulation Commission, dated February 26, 2013, on file with staff of the Insurance & Banking Subcommittee.

<sup>6</sup> *Id.* A filing must be accompanied by the applicable fee under the Commission's schedule of fees. Additionally, if the filing company is authorized in compacting states that have filing fees, these fees must also accompany the filing. The Commission will then remit such fees to the respective compacting states.

- Perform such other functions as may be necessary or appropriate to achieve the Compact's purposes consistent with state regulation of the business of insurance.
- Prescribe bylaws.
- Adopt a code of ethics, which does not supersede or otherwise limit the obligations of Florida's Insurance Commissioner or the Commissioner's designee under Florida's ethics laws or rules.

The Commission is required to provide written notice to compacting states that are not in compliance with adopted bylaws, rules, uniform standards, and operating procedures, with a timeframe for remedying the noncompliance. States that fail to timely comply are deemed in default, with all privileges and benefits conferred by the Compact suspended.

### **Key Terms Defined**

Key terms defined by the Compact, include:

- **Bylaws:** Bylaws adopted by the Commission as of March 1, 2013, for its governance or for directing or controlling the Commission's actions or conduct.
- **Compacting state:** Any state which has enacted this Compact legislation and has not withdrawn... or been terminated... [from] the Compact.
- **Insurer:** Any entity licensed by a state to issue contracts of insurance for any of the lines of insurance covered by the Compact.
- **Operating procedures:** Procedures adopted by the Commission as of March 1, 2013, and subsequent amendments thereto if the methodology remains substantially consistent, implementing a rule, uniform standard, or provision of the Compact.
- **Product:** The form of a policy or contract, including any application, endorsement, or related form which is attached to and made a part of the policy or contract, and any evidence of coverage or certificate, for an individual or group annuity, life insurance, disability income, or long-term care insurance product that an insurer is authorized to issue.
- **Rule:** A statement of general or particular applicability and future effect adopted by the Commission as of March 1, 2013, and subsequent amendments thereto if the methodology remains substantially consistent, including a uniform standard..., designed to implement, interpret, or prescribe law or policy or describe the organization, procedure, or practice requirements of the Commission, which shall have the force and effect of law in the compacting states.
- **Third-party filer:** An entity that submits a product filing to the Commission on behalf of an insurer.
- **Uniform standard:** A standard adopted by the Commission as of March 1, 2013, and subsequent amendments thereto if the methodology remains substantially consistent, for a product line pursuant to Article VII of the Compact and shall include all of the product requirements in aggregate; provided, each uniform standard shall be construed, whether express or implied, to prohibit the use of any inconsistent, misleading, or ambiguous provisions in a product and the form of the product made available to the public shall not be unfair, inequitable, or against public policy as determined by the Commission.

### **Product/Rate Filings and Commission Approval**

Product filings for covered products and rate filings for disability income and long-term care insurance products may be submitted to: (1) the Commission or (2) a state regulator for a state in which the insurer is licensed to write that line of business. A filing that is approved by the Commission, i.e., that satisfies uniform standards, is effective in all compacting states in which the insurer is authorized to write that line of business without further regulatory review. By contrast, a filing submitted to a state is reviewed by the state for compliance with state standards and, if approved, is effective only in that state.

Appeals from adverse decisions of the Commission must be made within 30 days; with the review conducted by a panel appointed by the Commission. However, judicial review is available for appeals based on allegations that the Commission acted arbitrarily, capriciously, or abused its discretion.

### **Florida's Policy of Opting Out of Subsequently Adopted Uniform Standards and Amendments**

Uniform standards have the force and effect of law, are binding in the compacting states, and require a two-thirds vote for adoption. Under the bill, Florida:

- Prospectively opts out of all uniform standards adopted by the Commission involving long-term care insurance products.
- Adopts all uniform standards (except those relating to long-term care) adopted by the Commission as of March 1, 2013.

The bill provides that it is Florida's policy to opt out, and requires the OIR to opt out, of: (1) new uniform standards adopted by the Commission after March 1, 2013; and (2) amendments adopted after March 1, 2013 to existing uniform standards that substantially alter or add to existing uniform standards until Florida enacts legislation to adopt or opt out of such standards or amendments. The OIR is required to immediately notify the Florida Legislature of any such actions by the Commission. The Financial Services Commission is given rulemaking authority to implement this act, which must be used to promulgate rules for opting out of subsequently adopted standards and amendments. If the OIR or a court of competent jurisdiction finds that the procedure for opting out has not been followed, the Florida Legislature will be notified, and reasonable and prompt measures must be taken to opt out of a uniform standard that has not been legislatively approved by Florida.

### **Delegation of Legislative Authority under the Florida Constitution**

Article II, Sec. 3 of the Florida Constitution provides for separation of powers among the executive, legislative, and judicial branches. The Florida Supreme Court has held that it is an unconstitutional delegation of legislative authority for the Legislature to prospectively adopt rules not yet promulgated by federal administrative bodies.<sup>7</sup> There does not appear to be any binding Florida case law that squarely addresses this issue in the context of interstate compacts. However, it can be argued that this prohibition (against prospective adoption by the Legislature of federal rules that have not yet been promulgated) extends to preclude the prospective adoption of uniform standards not yet adopted under an interstate compact.

Pursuant to the Compact, uniform standards adopted by the Commission have the force and effect of law and are binding in the compacting states. Under the bill, Florida adopts all uniform standards (except those relating to long-term care insurance) that have been adopted by the Commission as of March 1, 2013. It also establishes Florida's policy to opt out, and requires the OIR to opt out, of subsequently adopted uniform standards and certain subsequently adopted amendments to existing uniform standards until the state enacts legislation to adopt or opt out of such standards or amendments. Thus, only those subsequently adopted standards or amendments that are reviewed by the Florida Legislature and enacted into state law will become effective in this state.

### **Meetings and Records under the Compact**

The Commission is authorized to:

- Close a meeting<sup>8</sup> in whole or in part. The Insurance Commissioner, or the Commissioner's designee, may only attend, or otherwise participate in, a closed meeting or executive session to the extent permitted by Florida law.

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<sup>7</sup> *Freimuth v. State*, 272 So.2d 473, 476 (Fla. 1972); *Fla. Indus. Commission v. State ex rel. Orange State Oil Co.*, 21 So.2d 599, 603 (Fla. 1945).

<sup>8</sup> Notices of all Commission meetings, including instructions for public participation, provided to the OIR, the Commissioner, or the Commissioner's designee must be published in the Florida Administrative Register.

- Provide for the right of citizens to attend Committee meetings, except when necessary to protect the public's interest, the privacy of individuals, and insurers' proprietary information, including trade secrets.
- Adopt rules regarding conditions and procedures for public inspection and copying of the Commission's information and official records, except for records involving an individual's privacy or an insurer's trade secrets.
- Adopt rules to establish conditions and procedures for providing public access to product filing information.

Such provisions do not abrogate a person's right to access information under Florida law.

The bill provides for the Commission's records and books to be maintained pursuant to the bylaws, and that confidential information of the Commission remains confidential when provided to any Commission member. However, all requests from the public to inspect or copy records, data, or information of the Commission, wherever received, by and in possession of the Insurance Commissioner, the Commissioner's designee, or the OIR are made subject to Florida's Public Records Law, ch. 119, F.S.

### **Florida's Public Records Law and the Compact**

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records and the exemption of meetings from the requirements of Article I, s. 24(a) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose. A bill enacting an exemption or substantially amending an existing exemption may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.<sup>9</sup>

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act<sup>10</sup> provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

The Compact holds ineffective, as to a compacting state, any provisions that exceed the constitutional limits imposed on the legislature of that state. Provisions limiting access to information expressly provide that they do not abrogate a person's right to access information under Florida law. Although the Commission may close a meeting<sup>11</sup> in whole or in part, the Insurance Commissioner, or the

<sup>9</sup> Section 24(c), Art. I of the State Constitution.

<sup>10</sup> Section 119.15, F.S.

<sup>11</sup> In an informal opinion, the Florida Attorney General states that Florida's Sunshine Laws are applicable to Florida officials who transact business pursuant to an interstate compact. Op. Att'y Gen. Fla. Informal (1998) (regarding the Appalachian-Chattahoochee-Flint River Basin Compact). The compact created the "ACF Basin Commission," comprised of one representative each representing Alabama, Florida, and Georgia, and a non-voting member representing the United States. Available at <http://myfloridalegal.com> (last accessed: April 3, 2013).

Commissioner's designee, may only attend, or otherwise participate in such meeting or executive session, to the extent consistent with Florida law. Further, all requests from the public to inspect or copy records, data, or information of the Commission, wherever received, by and in possession of the Insurance Commissioner, the Commissioner's designee, or the OIR are made subject to Florida's Public Records Law, ch. 119, F.S.

### **Miscellaneous**

The bill:

- Requires the Commission to make an annual report to the governor and the legislature of each compacting state.
- Provides for the withdrawal of compacting states, dissolution of the Compact when there are fewer than two compacting states, and winding up of the Compact's affairs.
- Provides that the terms of the Compact are severable if any provision is deemed unenforceable, and that the provisions of the Compact are to be liberally construed to effectuate its purposes.

### **B. SECTION DIRECTORY:**

**Section 1.** Provides Legislative findings relating to the Interstate Insurance Product Regulation Model Compact.

**Section 2.** Sets forth the Interstate Insurance Product Regulation Compact.

**Section 3.** Provides for the adoption of uniform standards adopted under the Compact as of March 1, 2013, and establishes the state's policy to opt out of subsequently adopted standards.

**Section 4.** Provides that the Commission is subject to unemployment and reemployment taxes for persons who perform services for the Commission within the state, and for taxes for Commission business and other activities in Florida.

**Section 5.** Requires that requests for information that concern insurer trade secrets or matters of privacy be responded to in accordance with Florida law.

**Section 6.** Grants rulemaking authority to the Financial Services Commission.

**Section 7.** Provides an effective date of October 1, 2013.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill potentially reduces the cost to insurers of filing and obtaining approval of products and advertising materials, since the Commission provides a clearinghouse that allows insurers to make one filing rather than separate filings in each state in which they do business.

D. FISCAL COMMENTS:

There is minimal fiscal impact on state government. There is the potential that the Financial Services Commission will have to promulgate rules to opt out of new uniform standards or amendments adopted to existing uniform standards after March 1, 2013. At this time, it is unknown if additional rules will be needed.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or, reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Financial Services Commission is granted rulemaking authority to implement the Compact.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 13, 2013, the Insurance & Banking Subcommittee considered a proposed committee substitute and reported the proposed committee substitute favorably with a committee substitute. The proposed committee substitute made the following changes to the filed version of the bill:

- Provided that subsequently adopted uniform standards or amendments to existing uniform standards adopted by the Interstate Insurance Product Regulation Commission must be enacted into state law to take effect in Florida.
- Provided that the Commission is subject to state unemployment or reemployment taxes for employees who perform services in the state and for taxation for any Commission business or activity conducted or performed in Florida.
- Established a process for referring requests for public inspection or copying of information, data, or official records of the Commission that includes insurer trade secrets or matters of privacy to Florida's Insurance Commissioner, who will respond in accordance with Florida law.
- Clarified that the provisions of the Interstate Insurance Product Regulation Compact do not abrogate a person's right to access information consistent with the State Constitution and laws of Florida.
- Specified that Florida's Insurance Commissioner or the Commissioner's designee may only attend or participate in meetings closed by the Commission to the extent permitted by Florida law.

- Provided that if there is any inconsistency between a code of ethics adopted by the Commission and standards imposed under Florida's ethics laws or rules, that the Insurance Commissioner or the Commissioner's designee is required to adhere to the stricter standard of conduct.

The staff analysis was updated to reflect the committee substitute.





29 | commission to adopt rules; providing for disclosure of  
 30 | certain information; specifying that certain records,  
 31 | data, or information of the commission, wherever  
 32 | received, by and in possession of the Office of  
 33 | Insurance Regulation, the commissioner, or the  
 34 | commissioner's designee are subject to ch. 119, F.S.;  
 35 | requiring the commission to monitor for compliance;  
 36 | providing for dispute resolution; providing for  
 37 | product filing and approval; requiring the commission  
 38 | to establish filing and review processes and  
 39 | procedures; providing for review of commission  
 40 | decisions regarding filings; providing for finance of  
 41 | commission activities; providing for payment of  
 42 | expenses; authorizing the commission to collect filing  
 43 | fees for certain purposes; providing for approval of a  
 44 | commission budget; exempting the commission from all  
 45 | taxation, except as otherwise provided by the act;  
 46 | prohibiting the commission from pledging the credit of  
 47 | any compacting states without authority; requiring the  
 48 | commission to keep complete accurate accounts, provide  
 49 | for audits, and make annual reports to the Governors  
 50 | and Legislatures of compacting states; providing for  
 51 | amendment of the compact; providing for withdrawal  
 52 | from the compact, default by compacting states, and  
 53 | dissolution of the compact; providing severability and  
 54 | construction; providing for binding effect of this  
 55 | compact and other laws; prospectively opting out of  
 56 | all uniform standards adopted by the commission

57 | involving long-term care insurance products; adopting  
 58 | all other existing uniform standards that have been  
 59 | adopted by the commission; providing a procedure for  
 60 | adoption of any new uniform standards or amendments to  
 61 | existing uniform standards of the commission;  
 62 | requiring the office to notify the Legislature of any  
 63 | new uniform standards or amendments to existing  
 64 | uniform standards of the commission; providing that  
 65 | any new uniform standards or amendments to existing  
 66 | uniform standards of the commission may only be  
 67 | adopted via legislation; providing for applicability  
 68 | with respect to taxation of the commission; providing  
 69 | for applicability and process with respect to certain  
 70 | requests for inspection and copying of information,  
 71 | data, or records; authorizing the Financial Services  
 72 | Commission to adopt rules to implement this act and  
 73 | opt out of certain uniform standards; providing an  
 74 | effective date.

75 |  
 76 | Be It Enacted by the Legislature of the State of Florida:

77 |  
 78 | Section 1. Legislative findings; intent.—

79 | (1) The Legislature finds that the financial services  
 80 | marketplace has changed significantly in recent years and that  
 81 | asset-based insurance products, which include life insurance,  
 82 | annuities, disability income insurance, and long-term care  
 83 | insurance, now compete directly with other retirement and estate  
 84 | planning instruments that are sold by banks and securities

85 firms.

86 (2) The Legislature further finds that the increased  
 87 mobility of the population and the risks borne by these asset-  
 88 based products are not local in nature.

89 (3) The Legislature further finds that the Interstate  
 90 Insurance Product Regulation Compact Model adopted by the  
 91 National Association of Insurance Commissioners and endorsed by  
 92 the National Conference of Insurance Legislators and the  
 93 National Conference of State Legislatures is designed to address  
 94 these market changes by providing a uniform set of product  
 95 standards and a single source for filing of new products.

96 (4) The Legislature further finds that the product  
 97 standards that have been developed provide a high level of  
 98 consumer protection. Further, it is noted that the Interstate  
 99 Insurance Product Regulation Compact Model includes a mechanism  
 100 for opting out of any product standard that the state determines  
 101 would not reasonably protect its citizens. With respect to long-  
 102 term care insurance, the Legislature understands that the  
 103 compact does not intend to develop a uniform standard for rate  
 104 increase filings, thereby leaving the authority over long-term  
 105 care rate increases with the state. The state relies on that  
 106 understanding in adopting this legislation. The state, pursuant  
 107 to the terms and conditions of this act, seeks to join with  
 108 other states and establish the Interstate Insurance Product  
 109 Regulation Compact, and thus become a member of the Interstate  
 110 Insurance Product Regulation Commission. The Commissioner of  
 111 Insurance Regulation is hereby designated to serve as the  
 112 representative of this state on the commission. The commissioner

113 may designate a person to represent this state on the  
 114 commission, as necessary, to fulfill the duties of being a  
 115 member of the commission.

116 Section 2. Interstate Insurance Product Regulation  
 117 Compact.—The Interstate Insurance Product Regulation Compact is  
 118 hereby enacted into law and entered into by this state with all  
 119 states legally joining therein in the form substantially as  
 120 follows:

121  
 122 Interstate Insurance Product Regulation Compact

123  
 124 Preamble

125  
 126 This compact is intended to help states join together to  
 127 establish an interstate compact to regulate designated insurance  
 128 products. Pursuant to the terms and conditions of this compact,  
 129 this state seeks to join with other states and establish the  
 130 Interstate Insurance Product Regulation Compact and thus become  
 131 a member of the Interstate Insurance Product Regulation  
 132 Commission.

133  
 134 Article I

135  
 136 PURPOSES.—The purposes of this compact are, through means  
 137 of joint and cooperative action among the compacting states, to:

138 (1) Promote and protect the interest of consumers of  
 139 individual and group annuity, life insurance, disability income,  
 140 and long-term care insurance products.



169 2013, and subsequent amendments thereto if the methodology  
 170 remains substantially consistent.

171 (2) "Bylaws" means those bylaws adopted by the commission  
 172 as of March 1, 2013, for its governance or for directing or  
 173 controlling the commission's actions or conduct.

174 (3) "Compacting state" means any state which has enacted  
 175 this compact legislation and has not withdrawn pursuant to  
 176 subsection (1) of Article XIV of this compact or been terminated  
 177 pursuant to subsection (2) of Article XIV of this compact.

178 (4) "Commission" means the "Interstate Insurance Product  
 179 Regulation Commission" established by this compact.

180 (5) "Commissioner" means the chief insurance regulatory  
 181 official of a state, including, but not limited to, the  
 182 commissioner, superintendent, director, or administrator. For  
 183 purposes of this compact, the Commissioner of Insurance  
 184 Regulation is the chief insurance regulatory official of this  
 185 state.

186 (6) "Domiciliary state" means the state in which an  
 187 insurer is incorporated or organized or, in the case of an alien  
 188 insurer, its state of entry.

189 (7) "Insurer" means any entity licensed by a state to  
 190 issue contracts of insurance for any of the lines of insurance  
 191 covered by this compact.

192 (8) "Member" means the person chosen by a compacting state  
 193 as its representative to the commission, or his or her designee.

194 (9) "Noncompacting state" means any state which is not at  
 195 the time a compacting state.

196 (10) "Office" means the Office of Insurance Regulation of

197 the Financial Services Commission.

198 (11) "Operating procedures" means procedures adopted by  
 199 the commission as of March 1, 2013, and subsequent amendments  
 200 thereto if the methodology remains substantially consistent,  
 201 implementing a rule, uniform standard, or provision of this  
 202 compact.

203 (12) "Product" means the form of a policy or contract,  
 204 including any application, endorsement, or related form which is  
 205 attached to and made a part of the policy or contract, and any  
 206 evidence of coverage or certificate, for an individual or group  
 207 annuity, life insurance, disability income, or long-term care  
 208 insurance product that an insurer is authorized to issue.

209 (13) "Rule" means a statement of general or particular  
 210 applicability and future effect adopted by the commission as of  
 211 March 1, 2013, and subsequent amendments thereto if the  
 212 methodology remains substantially consistent, including a  
 213 uniform standard developed pursuant to Article VII of this  
 214 compact, designed to implement, interpret, or prescribe law or  
 215 policy or describe the organization, procedure, or practice  
 216 requirements of the commission, which shall have the force and  
 217 effect of law in the compacting states.

218 (14) "State" means any state, district, or territory of  
 219 the United States.

220 (15) "Third-party filer" means an entity that submits a  
 221 product filing to the commission on behalf of an insurer.

222 (16) "Uniform standard" means a standard adopted by the  
 223 commission as of March 1, 2013, and subsequent amendments  
 224 thereto if the methodology remains substantially consistent, for

225 | a product line pursuant to Article VII of this compact and shall  
 226 | include all of the product requirements in aggregate; provided,  
 227 | each uniform standard shall be construed, whether express or  
 228 | implied, to prohibit the use of any inconsistent, misleading, or  
 229 | ambiguous provisions in a product and the form of the product  
 230 | made available to the public shall not be unfair, inequitable,  
 231 | or against public policy as determined by the commission.

232 |  
 233 | Article III

234 |  
 235 | COMMISSION; ESTABLISHMENT; VENUE.-

236 | (1) The compacting states hereby create and establish a  
 237 | joint public agency known as the Interstate Insurance Product  
 238 | Regulation Commission. Pursuant to Article IV of this compact,  
 239 | the commission has the power to develop uniform standards for  
 240 | product lines, receive and provide prompt review of products  
 241 | filed with the commission, and give approval to those product  
 242 | filings satisfying applicable uniform standards; provided, it is  
 243 | not intended for the commission to be the exclusive entity for  
 244 | receipt and review of insurance product filings. Nothing in this  
 245 | article shall prohibit any insurer from filing its product in  
 246 | any state in which the insurer is licensed to conduct the  
 247 | business of insurance and any such filing shall be subject to  
 248 | the laws of the state where filed.

249 | (2) The commission is a body corporate and politic and an  
 250 | instrumentality of the compacting states.

251 | (3) The commission is solely responsible for its  
 252 | liabilities, except as otherwise specifically provided in this



253 compact.

254 (4) Venue is proper and judicial proceedings by or against  
 255 the commission shall be brought solely and exclusively in a  
 256 court of competent jurisdiction where the principal office of  
 257 the commission is located.

258 (5) The commission is a not-for-profit entity, separate  
 259 and distinct from the individual compacting states.

260

261 Article IV

262

263 POWERS.—The commission shall have the following powers to:

264 (1) Adopt rules, pursuant to Article VII, which shall have  
 265 the force and effect of law and shall be binding in the  
 266 compacting states to the extent and in the manner provided in  
 267 this compact.

268 (2) Exercise its rulemaking authority and establish  
 269 reasonable uniform standards for products covered under the  
 270 compact, and advertisement related thereto, which shall have the  
 271 force and effect of law and shall be binding in the compacting  
 272 states, but only for those products filed with the commission;  
 273 provided a compacting state shall have the right to opt out of  
 274 such uniform standard pursuant to Article VII to the extent and  
 275 in the manner provided in this compact and any uniform standard  
 276 established by the commission for long-term care insurance  
 277 products may provide the same or greater protections for  
 278 consumers as, but shall provide at least, those protections set  
 279 forth in the National Association of Insurance Commissioners'  
 280 Long-Term Care Insurance Model Act and Long-Term Care Insurance

281 Model Regulation, respectively, adopted as of 2001. The  
 282 commission shall consider whether any subsequent amendments to  
 283 the National Association of Insurance Commissioners' Long-Term  
 284 Care Insurance Model Act or Long-Term Care Insurance Model  
 285 Regulation adopted by the National Association of Insurance  
 286 Commissioners require amending of the uniform standards  
 287 established by the commission for long-term care insurance  
 288 products.

289 (3) Receive and review in an expeditious manner products  
 290 filed with the commission and rate filings for disability income  
 291 and long-term care insurance products and give approval of those  
 292 products and rate filings that satisfy the applicable uniform  
 293 standard, and such approval shall have the force and effect of  
 294 law and be binding on the compacting states to the extent and in  
 295 the manner provided in the compact.

296 (4) Receive and review in an expeditious manner  
 297 advertisement relating to long-term care insurance products for  
 298 which uniform standards have been adopted by the commission, and  
 299 give approval to all advertisement that satisfies the applicable  
 300 uniform standard. For any product covered under this compact,  
 301 other than long-term care insurance products, the commission  
 302 shall have the authority to require an insurer to submit all or  
 303 any part of its advertisement with respect to that product for  
 304 review or approval prior to use, if the commission determines  
 305 that the nature of the product is such that an advertisement of  
 306 the product could have the capacity or tendency to mislead the  
 307 public. The actions of the commission as provided in this  
 308 subsection shall have the force and effect of law and shall be

309 binding in the compacting states to the extent and in the manner  
 310 provided in the compact.

311 (5) Exercise its rulemaking authority and designate  
 312 products and advertisement that may be subject to a self-  
 313 certification process without the need for prior approval by the  
 314 commission.

315 (6) Adopt operating procedures, pursuant to Article VII,  
 316 which shall be binding in the compacting states to the extent  
 317 and in the manner provided in this compact.

318 (7) Bring and prosecute legal proceedings or actions in  
 319 its name as the commission; provided the standing of any state  
 320 insurance department to sue or be sued under applicable law  
 321 shall not be affected.

322 (8) Issue subpoenas requiring the attendance and testimony  
 323 of witnesses and the production of evidence.

324 (9) Establish and maintain offices.

325 (10) Purchase and maintain insurance and bonds.

326 (11) Borrow, accept, or contract for services of  
 327 personnel, including, but not limited to, employees of a  
 328 compacting state. Any action under this subsection concerning  
 329 employees of this state may only be taken upon the express  
 330 written consent of the state.

331 (12) Hire employees, professionals, or specialists; elect  
 332 or appoint officers and fix their compensation, define their  
 333 duties, give them appropriate authority to carry out the  
 334 purposes of the compact, and determine their qualifications; and  
 335 establish the commission's personnel policies and programs  
 336 relating to, among other things, conflicts of interest, rates of

337 compensation, and qualifications of personnel.

338 (13) Accept any and all appropriate donations and grants  
 339 of money, equipment, supplies, materials, and services and to  
 340 receive, use, and dispose of the same; provided at all times the  
 341 commission shall avoid any appearance of impropriety.

342 (14) Lease, purchase, and accept appropriate gifts or  
 343 donations of, or otherwise to own, hold, improve, or use, any  
 344 property, real, personal, or mixed; provided at all times the  
 345 commission shall avoid any appearance of impropriety.

346 (15) Sell, convey, mortgage, pledge, lease, exchange,  
 347 abandon, or otherwise dispose of any property, real, personal,  
 348 or mixed.

349 (16) Remit filing fees to compacting states as may be set  
 350 forth in the bylaws, rules, or operating procedures.

351 (17) Enforce compliance by compacting states with rules,  
 352 uniform standards, operating procedures, and bylaws.

353 (18) Provide for dispute resolution among compacting  
 354 states.

355 (19) Advise compacting states on issues relating to  
 356 insurers domiciled or doing business in noncompacting  
 357 jurisdictions, consistent with the purposes of this compact.

358 (20) Provide advice and training to those personnel in  
 359 state insurance departments responsible for product review and  
 360 to be a resource for state insurance departments.

361 (21) Establish a budget and make expenditures.

362 (22) Borrow money, provided that this power does not, in  
 363 any manner, obligate the financial resources of the State of  
 364 Florida.

365 (23) Appoint committees, including advisory committees,  
 366 comprising members, state insurance regulators, state  
 367 legislators or their representatives, insurance industry and  
 368 consumer representatives, and such other interested persons as  
 369 may be designated in the bylaws.

370 (24) Provide and receive information from and to cooperate  
 371 with law enforcement agencies.

372 (25) Adopt and use a corporate seal.

373 (26) Perform such other functions as may be necessary or  
 374 appropriate to achieve the purposes of this compact consistent  
 375 with the state regulation of the business of insurance.

377 Article V

379 ORGANIZATION.—

380 (1) Membership; voting; bylaws.—

381 (a)1. Each compacting state shall have and be limited to  
 382 one member. Each member shall be qualified to serve in that  
 383 capacity pursuant to applicable law of the compacting state. Any  
 384 member may be removed or suspended from office as provided by  
 385 the law of the state from which he or she is appointed. Any  
 386 vacancy occurring in the commission shall be filled in  
 387 accordance with the laws of the compacting state in which the  
 388 vacancy exists. Nothing in this article shall be construed to  
 389 affect the manner in which a compacting state determines the  
 390 election or appointment and qualification of its own  
 391 commissioner. However, the commissioner may designate a person  
 392 to represent this state on the commission, as necessary, to

393 fulfill the duties of being a member of the commission.

394 2. The Commissioner of Insurance Regulation is hereby  
 395 designated to serve as the representative of this state on the  
 396 commission. However, the commissioner may designate a person to  
 397 represent this state on the commission, as necessary, to fulfill  
 398 the duties of being a member of the commission.

399 (b) Each member shall be entitled to one vote and shall  
 400 have an opportunity to participate in the governance of the  
 401 commission in accordance with the bylaws. Notwithstanding any  
 402 other provision of this article, no action of the commission  
 403 with respect to the adoption of a uniform standard shall be  
 404 effective unless two-thirds of the members vote in favor of such  
 405 action.

406 (c) The commission shall, by a majority of the members,  
 407 prescribe bylaws to govern its conduct as may be necessary or  
 408 appropriate to carry out the purposes and exercise the powers of  
 409 the compact, including, but not limited to:

410 1. Establishing the fiscal year of the commission.

411 2. Providing reasonable procedures for appointing and  
 412 electing members, as well as holding meetings, of the management  
 413 committee.

414 3. Providing reasonable standards and procedures:

415 a. For the establishment and meetings of other committees.

416 b. Governing any general or specific delegation of any  
 417 authority or function of the commission.

418 4. Providing reasonable procedures for calling and  
 419 conducting meetings of the commission that consist of a majority  
 420 of commission members, ensuring reasonable advance notice of

421 each such meeting, and providing for the right of citizens to  
422 attend each such meeting with enumerated exceptions designed to  
423 protect the public's interest, the privacy of individuals, and  
424 insurers' proprietary information, including, but not limited  
425 to, trade secrets. The commission may meet in camera only after  
426 a majority of the entire membership votes to close a meeting in  
427 total or in part. The commissioner of this state, or the  
428 commissioner's designee, may attend, or otherwise participate  
429 in, a meeting or executive session that is closed in total or  
430 part to the extent such attendance or participation is  
431 consistent with Florida law. As soon as practicable, the  
432 commission must make public a copy of the vote to close the  
433 meeting revealing the vote of each member with no proxy votes  
434 allowed, and votes taken during such meeting. All notices of  
435 commission meetings, including instructions for public  
436 participation, provided to the office, the commissioner, or the  
437 commissioner's designee shall be published in the Florida  
438 Administrative Register.

439 5. Establishing the titles, duties, and authority and  
440 reasonable procedures for the election of the officers of the  
441 commission.

442 6. Providing reasonable standards and procedures for the  
443 establishment of the personnel policies and programs of the  
444 commission. Notwithstanding any civil service or other similar  
445 laws of any compacting state, the bylaws shall exclusively  
446 govern the personnel policies and programs of the commission.

447 7. Adopting a code of ethics to address permissible and  
448 prohibited activities of commission members and employees. This

449 code does not supersede or otherwise limit the obligations and  
 450 duties of this state's commissioner or the commissioner's  
 451 designee under ethics laws or rules of the State of Florida. To  
 452 the extent there is any inconsistency between the standards  
 453 imposed by this code and the standards imposed under this  
 454 state's ethics laws or rules, the commissioner or the  
 455 commissioner's designee must adhere to the stricter standard of  
 456 conduct.

457 8. Providing a mechanism for winding up the operations of  
 458 the commission and the equitable disposition of any surplus  
 459 funds that may exist after the termination of the compact after  
 460 the payment or reserving of all debts and obligations of the  
 461 commission.

462 (d) The commission shall publish its bylaws in a  
 463 convenient form and file a copy of such bylaws and a copy of any  
 464 amendment to such bylaws, with the appropriate agency or officer  
 465 in each of the compacting states.

466 (2) Management committee, officers, and personnel.-

467 (a) A management committee comprising no more than 14  
 468 members shall be established as follows:

469 1. One member from each of the six compacting states with  
 470 the largest premium volume for individual and group annuities,  
 471 life, disability income, and long-term care insurance products,  
 472 determined from the records of the National Association of  
 473 Insurance Commissioners for the prior year.

474 2. Four members from those compacting states with at least  
 475 2 percent of the market based on the premium volume described  
 476 above, other than the six compacting states with the largest



477 premium volume, selected on a rotating basis as provided in the  
 478 bylaws.

479 3. Four members from those compacting states with less  
 480 than 2 percent of the market, based on the premium volume  
 481 described above, with one selected from each of the four zone  
 482 regions of the National Association of Insurance Commissioners  
 483 as provided in the bylaws.

484 (b) The management committee shall have such authority and  
 485 duties as may be set forth in the bylaws, including, but not  
 486 limited to:

487 1. Managing the affairs of the commission in a manner  
 488 consistent with the bylaws and purposes of the commission.

489 2. Establishing and overseeing an organizational structure  
 490 within, and appropriate procedures for, the commission to  
 491 provide for the creation of uniform standards and other rules,  
 492 receipt and review of product filings, administrative and  
 493 technical support functions, review of decisions regarding the  
 494 disapproval of a product filing, and the review of elections  
 495 made by a compacting state to opt out of a uniform standard;  
 496 provided a uniform standard shall not be submitted to the  
 497 compacting states for adoption unless approved by two-thirds of  
 498 the members of the management committee.

499 3. Overseeing the offices of the commission.

500 4. Planning, implementing, and coordinating communications  
 501 and activities with other state, federal, and local government  
 502 organizations in order to advance the goals of the commission.

503 (c) The commission shall elect annually officers from the  
 504 management committee, with each having such authority and duties

505 as may be specified in the bylaws.

506 (d) The management committee may, subject to the approval  
 507 of the commission, appoint or retain an executive director for  
 508 such period, upon such terms and conditions, and for such  
 509 compensation as the commission may deem appropriate. The  
 510 executive director shall serve as secretary to the commission  
 511 but shall not be a member of the commission. The executive  
 512 director shall hire and supervise such other staff as may be  
 513 authorized by the commission.

514 (3) Legislative and advisory committees.-

515 (a) A legislative committee comprised of state legislators  
 516 or their designees shall be established to monitor the  
 517 operations of and make recommendations to the commission,  
 518 including the management committee; provided the manner of  
 519 selection and term of any legislative committee member shall be  
 520 as set forth in the bylaws. Prior to the adoption by the  
 521 commission of any uniform standard, revision to the bylaws,  
 522 annual budget, or other significant matter as may be provided in  
 523 the bylaws, the management committee shall consult with and  
 524 report to the legislative committee.

525 (b) The commission shall establish two advisory  
 526 committees, one comprising consumer representatives independent  
 527 of the insurance industry and the other comprising insurance  
 528 industry representatives.

529 (c) The commission may establish additional advisory  
 530 committees as the bylaws may provide for the carrying out of  
 531 commission functions.

532 (4) Corporate records of the commission.-The commission

533 | shall maintain its corporate books and records in accordance  
 534 | with the bylaws.

535 | (5) Qualified immunity, defense and indemnification.-

536 | (a) The members, officers, executive director, employees,  
 537 | and representatives of the commission shall be immune from suit  
 538 | and liability, either personally or in their official capacity,  
 539 | for any claim for damage to or loss of property or personal  
 540 | injury or other civil liability caused by or arising out of any  
 541 | actual or alleged act, error, or omission that occurred, or that  
 542 | the person against whom the claim is made had a reasonable basis  
 543 | for believing occurred within the scope of commission  
 544 | employment, duties, or responsibilities; provided nothing in  
 545 | this paragraph shall be construed to protect any such person  
 546 | from suit or liability for any damage, loss, injury, or  
 547 | liability caused by the intentional or willful and wanton  
 548 | misconduct of that person.

549 | (b) The commission shall defend any member, officer,  
 550 | executive director, employee, or representative of the  
 551 | commission in any civil action seeking to impose liability  
 552 | arising out of any actual or alleged act, error, or omission  
 553 | that occurred within the scope of commission employment, duties,  
 554 | or responsibilities, or that the person against whom the claim  
 555 | is made had a reasonable basis for believing occurred within the  
 556 | scope of commission employment, duties, or responsibilities;  
 557 | provided nothing in this article shall be construed to prohibit  
 558 | that person from retaining his or her own counsel and the actual  
 559 | or alleged act, error, or omission did not result from that  
 560 | person's intentional or willful and wanton misconduct.

561       (c) The commission shall indemnify and hold harmless any  
 562 member, officer, executive director, employee, or representative  
 563 of the commission for the amount of any settlement or judgment  
 564 obtained against that person arising out of any actual or  
 565 alleged act, error, or omission that occurred within the scope  
 566 of commission employment, duties, or responsibilities, or that  
 567 such person had a reasonable basis for believing occurred within  
 568 the scope of commission employment, duties, or responsibilities;  
 569 provided the actual or alleged act, error, or omission did not  
 570 result from the intentional or willful and wanton misconduct of  
 571 that person.

572  
 573                                   Article VI

574  
 575       MEETINGS; ACTS.—

576       (1) The commission shall meet and take such actions as are  
 577 consistent with the provisions of this compact and the bylaws.

578       (2) Each member of the commission shall have the right and  
 579 power to cast a vote to which that compacting state is entitled  
 580 and to participate in the business and affairs of the  
 581 commission. A member shall vote in person or by such other means  
 582 as provided in the bylaws. The bylaws may provide for members'  
 583 participation in meetings by telephone or other means of  
 584 communication.

585       (3) The commission shall meet at least once during each  
 586 calendar year. Additional meetings shall be held as set forth in  
 587 the bylaws.

Article VII

RULES AND OPERATING PROCEDURES; RULEMAKING FUNCTIONS OF THE COMMISSION; OPTING OUT OF UNIFORM STANDARDS.-

(1) Rulemaking authority.-The commission shall adopt reasonable rules, including uniform standards, and operating procedures in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding such requirement, if the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact or the powers granted under this compact, such action by the commission shall be invalid and have no force and effect.

(2) Rulemaking procedure.-Rules and operating procedures shall be made pursuant to a rulemaking process that conforms to the Model State Administrative Procedure Act of 1981, as amended, as may be appropriate to the operations of the commission. Before the commission adopts a uniform standard, the commission shall give written notice to the relevant state legislative committees in each compacting state responsible for insurance issues of its intention to adopt the uniform standard. The commission in adopting a uniform standard shall consider fully all submitted materials and issue a concise explanation of its decision.

(3) Effective date and opt out of a uniform standard.-A uniform standard shall become effective 90 days after its adoption by the commission or such later date as the commission may determine; provided a compacting state may opt out of a uniform standard as provided in this act. The term "opt out"

617 means any action by a compacting state to decline to adopt or  
 618 participate in an adopted uniform standard. All other rules and  
 619 operating procedures, and amendments thereto, shall become  
 620 effective as of the date specified in each rule, operating  
 621 procedure, or amendment.

622 (4) Opt out procedure.—

623 (a) A compacting state may opt out of a uniform standard  
 624 by legislation or regulation adopted by the compacting state  
 625 under such state's Administrative Procedure Act. If a compacting  
 626 state elects to opt out of a uniform standard by regulation,  
 627 such state must:

628 1. Give written notice to the commission no later than 10  
 629 business days after the uniform standard is adopted, or at the  
 630 time the state becomes a compacting state.

631 2. Find that the uniform standard does not provide  
 632 reasonable protections to the citizens of the state, given the  
 633 conditions in the state.

634 (b) The commissioner of a compacting state other than this  
 635 state shall make specific findings of fact and conclusions of  
 636 law, based on a preponderance of the evidence, detailing the  
 637 conditions in the state which warrant a departure from the  
 638 uniform standard and determining that the uniform standard would  
 639 not reasonably protect the citizens of the state. The  
 640 commissioner must consider and balance the following factors and  
 641 find that the conditions in the state and needs of the citizens  
 642 of the state outweigh:

643 1. The intent of the Legislature to participate in, and  
 644 the benefits of, an interstate agreement to establish national

645 uniform consumer protections for the products subject to this  
 646 compact.

647 2. The presumption that a uniform standard adopted by the  
 648 commission provides reasonable protections to consumers of the  
 649 relevant product.

650  
 651 Notwithstanding this subsection, a compacting state may, at the  
 652 time of its enactment of this compact, prospectively opt out of  
 653 all uniform standards involving long-term care insurance  
 654 products by expressly providing for such opt out in the enacted  
 655 compact, and such an opt out shall not be treated as a material  
 656 variance in the offer or acceptance of any state to participate  
 657 in this compact. Such an opt out shall be effective at the time  
 658 of enactment of this compact by the compacting state and shall  
 659 apply to all existing uniform standards involving long-term care  
 660 insurance products and those subsequently adopted.

661 (5) Effect of opting out.—If a compacting state elects to  
 662 opt out of a uniform standard, the uniform standard shall remain  
 663 applicable in the compacting state electing to opt out until  
 664 such time as the opt out legislation is enacted into law or the  
 665 regulation opting out becomes effective. Once the opt out of a  
 666 uniform standard by a compacting state becomes effective as  
 667 provided under the laws of that state, the uniform standard  
 668 shall have no further force and effect in that state unless and  
 669 until the legislation or regulation implementing the opt out is  
 670 repealed or otherwise becomes ineffective under the laws of the  
 671 state. If a compacting state opts out of a uniform standard  
 672 after the uniform standard has been made effective in that

673 state, the opt out shall have the same prospective effect as  
 674 provided under Article XIV for withdrawals.

675 (6) Stay of uniform standard.—If a compacting state has  
 676 formally initiated the process of opting out of a uniform  
 677 standard by regulation, and while the regulatory opt out is  
 678 pending, the compacting state may petition the commission, at  
 679 least 15 days before the effective date of the uniform standard,  
 680 to stay the effectiveness of the uniform standard in that state.  
 681 The commission may grant a stay if the commission determines the  
 682 regulatory opt out is being pursued in a reasonable manner and  
 683 there is a likelihood of success. If a stay is granted or  
 684 extended by the commission, the stay or extension thereof may  
 685 postpone the effective date by up to 90 days, unless  
 686 affirmatively extended by the commission; provided a stay may  
 687 not be permitted to remain in effect for more than 1 year unless  
 688 the compacting state can show extraordinary circumstances which  
 689 warrant a continuance of the stay, including, but not limited  
 690 to, the existence of a legal challenge which prevents the  
 691 compacting state from opting out. A stay may be terminated by  
 692 the commission upon notice that the rulemaking process has been  
 693 terminated.

694 (7) Judicial review.—Within 30 days after a rule or  
 695 operating procedure is adopted, any person may file a petition  
 696 for judicial review of the rule or operating procedure; provided  
 697 the filing of such a petition shall not stay or otherwise  
 698 prevent the rule or operating procedure from becoming effective  
 699 unless the court finds that the petitioner has a substantial  
 700 likelihood of success. The court shall give deference to the



701 actions of the commission consistent with applicable law and  
 702 shall not find the rule or operating procedure to be unlawful if  
 703 the rule or operating procedure represents a reasonable exercise  
 704 of the commission's authority.

706 Article VIII

708 COMMISSION RECORDS AND ENFORCEMENT.-

709 (1) The commission shall adopt rules establishing  
 710 conditions and procedures for public inspection and copying of  
 711 its information and official records, except such information  
 712 and records involving the privacy of individuals and insurers'  
 713 trade secrets. The commission may adopt additional rules under  
 714 which the commission may make available to federal and state  
 715 agencies, including law enforcement agencies, records and  
 716 information otherwise exempt from disclosure and may enter into  
 717 agreements with such agencies to receive or exchange information  
 718 or records subject to nondisclosure and confidentiality  
 719 provisions.

720 (2) Except as to privileged records, data, and  
 721 information, the laws of any compacting state pertaining to  
 722 confidentiality or nondisclosure shall not relieve any  
 723 compacting state commissioner of the duty to disclose any  
 724 relevant records, data, or information to the commission;  
 725 provided disclosure to the commission shall not be deemed to  
 726 waive or otherwise affect any confidentiality requirement; and  
 727 further provided, except as otherwise expressly provided in this  
 728 compact, the commission shall not be subject to the compacting

729 state's laws pertaining to confidentiality and nondisclosure  
 730 with respect to records, data, and information in its  
 731 possession. Confidential information of the commission shall  
 732 remain confidential after such information is provided to any  
 733 commissioner; however, all requests from the public to inspect  
 734 or copy records, data, or information of the commission,  
 735 wherever received, by and in the possession of the office,  
 736 commissioner, or the commissioner's designee shall be subject to  
 737 chapter 119, Florida Statutes.

738 (3) The commission shall monitor compacting states for  
 739 compliance with duly adopted bylaws, rules, uniform standards,  
 740 and operating procedures. The commission shall notify any  
 741 noncomplying compacting state in writing of its noncompliance  
 742 with commission bylaws, rules, or operating procedures. If a  
 743 noncomplying compacting state fails to remedy its noncompliance  
 744 within the time specified in the notice of noncompliance, the  
 745 compacting state shall be deemed to be in default as set forth  
 746 in Article XIV of this compact.

747 (4) The commissioner of any state in which an insurer is  
 748 authorized to do business or is conducting the business of  
 749 insurance shall continue to exercise his or her authority to  
 750 oversee the market regulation of the activities of the insurer  
 751 in accordance with the provisions of the state's law. The  
 752 commissioner's enforcement of compliance with the compact is  
 753 governed by the following provisions:

754 (a) With respect to the commissioner's market regulation  
 755 of a product or advertisement that is approved or certified to  
 756 the commission, the content of the product or advertisement

757 shall not constitute a violation of the provisions, standards,  
 758 or requirements of the compact except upon a final order of the  
 759 commission, issued at the request of a commissioner after prior  
 760 notice to the insurer and an opportunity for hearing before the  
 761 commission.

762 (b) Before a commissioner may bring an action for  
 763 violation of any provision, standard, or requirement of the  
 764 compact relating to the content of an advertisement not approved  
 765 or certified to the commission, the commission, or an authorized  
 766 commission officer or employee, must authorize the action.  
 767 However, authorization pursuant to this paragraph does not  
 768 require notice to the insurer, opportunity for hearing, or  
 769 disclosure of requests for authorization or records of the  
 770 commission's action on such requests.

771  
 772 Article IX  
 773

774 DISPUTE RESOLUTION.—The commission shall attempt, upon the  
 775 request of a member, to resolve any disputes or other issues  
 776 that are subject to this compact and which may arise between two  
 777 or more compacting states, or between compacting states and  
 778 noncompacting states, and the commission shall adopt an  
 779 operating procedure providing for resolution of such disputes.

780  
 781 Article X  
 782

783 PRODUCT FILING AND APPROVAL.—

784 (1) Insurers and third-party filers seeking to have a

785 product approved by the commission shall file the product with  
 786 and pay applicable filing fees to the commission. Nothing in  
 787 this compact shall be construed to restrict or otherwise prevent  
 788 an insurer from filing its product with the insurance department  
 789 in any state in which the insurer is licensed to conduct the  
 790 business of insurance and such filing shall be subject to the  
 791 laws of the states where filed.

792 (2) The commission shall establish appropriate filing and  
 793 review processes and procedures pursuant to commission rules and  
 794 operating procedures. Notwithstanding any provision of this  
 795 article, the commission shall adopt rules to establish  
 796 conditions and procedures under which the commission will  
 797 provide public access to product filing information. In  
 798 establishing such rules, the commission shall consider the  
 799 interests of the public in having access to such information, as  
 800 well as protection of personal medical and financial information  
 801 and trade secrets, that may be contained in a product filing or  
 802 supporting information.

803 (3) Any product approved by the commission may be sold or  
 804 otherwise issued in those compacting states for which the  
 805 insurer is legally authorized to do business.

807 Article XI

809 REVIEW OF COMMISSION DECISIONS REGARDING FILINGS.—

810 (1) Within 30 days after the commission has given notice  
 811 of a disapproved product or advertisement filed with the  
 812 commission, the insurer or third-party filer whose filing was

813 disapproved may appeal the determination to a review panel  
 814 appointed by the commission. The commission shall adopt rules to  
 815 establish procedures for appointing such review panels and  
 816 provide for notice and hearing. An allegation that the  
 817 commission, in disapproving a product or advertisement filed  
 818 with the commission, acted arbitrarily, capriciously, or in a  
 819 manner that is an abuse of discretion or otherwise not in  
 820 accordance with the law, is subject to judicial review in  
 821 accordance with subsection (4) of Article III.

822 (2) The commission shall have authority to monitor,  
 823 review, and reconsider products and advertisement subsequent to  
 824 their filing or approval upon a finding that the product does  
 825 not meet the relevant uniform standard. Where appropriate, the  
 826 commission may withdraw or modify its approval after proper  
 827 notice and hearing, subject to the appeal process in subsection  
 828 (1).

830 Article XII

832 FINANCE.—

833 (1) The commission shall pay or provide for the payment of  
 834 the reasonable expenses of the commission's establishment and  
 835 organization. To fund the cost of the commission's initial  
 836 operations, the commission may accept contributions and other  
 837 forms of funding from the National Association of Insurance  
 838 Commissioners, compacting states, and other sources.  
 839 Contributions and other forms of funding from other sources  
 840 shall be of such a nature that the independence of the

841 commission concerning the performance of commission duties shall  
 842 not be compromised.

843 (2) The commission shall collect a filing fee from each  
 844 insurer and third-party filer filing a product with the  
 845 commission to cover the cost of the operations and activities of  
 846 the commission and its staff in a total amount sufficient to  
 847 cover the commission's annual budget.

848 (3) The commission's budget for a fiscal year shall not be  
 849 approved until the budget has been subject to notice and comment  
 850 as set forth in Article VII.

851 (4) The commission shall be exempt from all taxation in  
 852 and by the compacting states.

853 (5) The commission shall not pledge the credit of any  
 854 compacting state, except by and with the appropriate legal  
 855 authority of that compacting state.

856 (6) The commission shall keep complete and accurate  
 857 accounts of all its internal receipts, including grants and  
 858 donations, and disbursements of all funds under its control. The  
 859 internal financial accounts of the commission shall be subject  
 860 to the accounting procedures established under its bylaws. The  
 861 financial accounts and reports including the system of internal  
 862 controls and procedures of the commission shall be audited  
 863 annually by an independent certified public accountant. Upon the  
 864 determination of the commission, but no less frequently than  
 865 every 3 years, the review of the independent auditor shall  
 866 include a management and performance audit of the commission.  
 867 The commission shall make an annual report to the Governor and  
 868 the presiding officers of the Legislature of the compacting

869 states, which shall include a report of the independent audit.  
 870 The commission's internal accounts shall not be confidential and  
 871 such materials may be shared with the commissioner of any  
 872 compacting state upon request; provided any work papers related  
 873 to any internal or independent audit and any information  
 874 regarding the privacy of individuals and insurers' proprietary  
 875 information, including trade secrets, shall remain confidential.

876 (7) No compacting state shall have any claim to or  
 877 ownership of any property held by or vested in the commission or  
 878 to any commission funds held pursuant to the provisions of this  
 879 compact.

880  
 881 Article XIII  
 882

883 COMPACTING STATES, EFFECTIVE DATE, AMENDMENT.-

884 (1) Any state is eligible to become a compacting state.

885 (2) The compact shall become effective and binding upon  
 886 legislative enactment of the compact into law by two compacting  
 887 states; provided the commission shall become effective for  
 888 purposes of adopting uniform standards for, reviewing, and  
 889 giving approval or disapproval of, products filed with the  
 890 commission that satisfy applicable uniform standards only after  
 891 26 states are compacting states or, alternatively, by states  
 892 representing greater than 40 percent of the premium volume for  
 893 life insurance, annuity, disability income, and long-term care  
 894 insurance products, based on records of the National Association  
 895 of Insurance Commissioners for the prior year. Thereafter, the  
 896 compact shall become effective and binding as to any other

897 compacting state upon enactment of the compact into law by that  
 898 state.

899 (3) Amendments to the compact may be proposed by the  
 900 commission for enactment by the compacting states. No amendment  
 901 shall become effective and binding upon the commission and the  
 902 compacting states unless and until all compacting states enact  
 903 the amendment into law.

904  
 905 Article XIV

906  
 907 WITHDRAWAL; DEFAULT; DISSOLUTION.-

908 (1) Withdrawal.-

909 (a) Once effective, the compact shall continue in force  
 910 and remain binding upon each and every compacting state;  
 911 provided a compacting state may withdraw from the compact by  
 912 enacting a law specifically repealing the law which enacted the  
 913 compact into law.

914 (b) The effective date of withdrawal is the effective date  
 915 of the repealing law. However, the withdrawal shall not apply to  
 916 any product filings approved or self-certified, or any  
 917 advertisement of such products, on the date the repealing law  
 918 becomes effective, except by mutual agreement of the commission  
 919 and the withdrawing state unless the approval is rescinded by  
 920 the withdrawing state as provided in paragraph (e).

921 (c) The commissioner of the withdrawing state shall  
 922 immediately notify the management committee in writing upon the  
 923 introduction of legislation repealing this compact in the  
 924 withdrawing state.



925        (d) The commission shall notify the other compacting  
 926        states of the introduction of such legislation within 10 days  
 927        after the commission's receipt of notice of such legislation.

928        (e) The withdrawing state is responsible for all  
 929        obligations, duties, and liabilities incurred through the  
 930        effective date of withdrawal, including any obligations, the  
 931        performance of which extend beyond the effective date of  
 932        withdrawal, except to the extent those obligations may have been  
 933        released or relinquished by mutual agreement of the commission  
 934        and the withdrawing state. The commission's approval of products  
 935        and advertisement prior to the effective date of withdrawal  
 936        shall continue to be effective and be given full force and  
 937        effect in the withdrawing state unless formally rescinded by the  
 938        withdrawing state in the same manner as provided by the laws of  
 939        the withdrawing state for the prospective disapproval of  
 940        products or advertisement previously approved under state law.

941        (f) Reinstatement following withdrawal of any compacting  
 942        state shall occur upon the effective date of the withdrawing  
 943        state reenacting the compact.

944        (2) Default.—

945        (a) If the commission determines that any compacting state  
 946        has at any time defaulted in the performance of any of its  
 947        obligations or responsibilities under this compact, the bylaws,  
 948        or duly adopted rules or operating procedures, after notice and  
 949        hearing as set forth in the bylaws, all rights, privileges, and  
 950        benefits conferred by this compact on the defaulting state shall  
 951        be suspended from the effective date of default as fixed by the  
 952        commission. The grounds for default include, but are not limited

953 to, failure of a compacting state to perform its obligations or  
 954 responsibilities, and any other grounds designated in commission  
 955 rules. The commission shall immediately notify the defaulting  
 956 state in writing of the defaulting state's suspension pending a  
 957 cure of the default. The commission shall stipulate the  
 958 conditions and the time period within which the defaulting state  
 959 must cure its default. If the defaulting state fails to cure the  
 960 default within the time period specified by the commission, the  
 961 defaulting state shall be terminated from the compact and all  
 962 rights, privileges, and benefits conferred by this compact shall  
 963 be terminated from the effective date of termination.

964 (b) Product approvals by the commission or product self-  
 965 certifications, or any advertisement in connection with such  
 966 product that are in force on the effective date of termination  
 967 shall remain in force in the defaulting state in the same manner  
 968 as if the defaulting state had withdrawn voluntarily pursuant to  
 969 subsection (1).

970 (c) Reinstatement following termination of any compacting  
 971 state requires a reenactment of the compact.

972 (3) Dissolution of compact.-

973 (a) The compact dissolves effective upon the date of the  
 974 withdrawal or default of the compacting state which reduces  
 975 membership in the compact to a single compacting state.

976 (b) Upon the dissolution of this compact, the compact  
 977 becomes null and void and shall be of no further force or effect  
 978 and the business and affairs of the commission shall be  
 979 concluded and any surplus funds shall be distributed in  
 980 accordance with the bylaws.

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Article XV

SEVERABILITY; CONSTRUCTION.—

(1) The provisions of this compact are severable and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(2) The provisions of this compact shall be liberally construed to effectuate its purposes.

Article XVI

BINDING EFFECT OF COMPACT AND OTHER LAWS.—

(1) Binding effect of this compact.—

(a) All lawful actions of the commission, including all rules and operating procedures adopted by the commission, are binding upon the compacting states.

(b) All agreements between the commission and the compacting states are binding in accordance with their terms.

(c) Upon the request of a party to a conflict over the meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation in dispute.

(d) If any provision of this compact exceeds the constitutional limits imposed on the Legislature of any compacting state, the obligations, duties, powers, or

1009 jurisdiction sought to be conferred by that provision upon the  
 1010 commission shall be ineffective as to that compacting state and  
 1011 those obligations, duties, powers, or jurisdiction shall remain  
 1012 in the compacting state and shall be exercised by the agency of  
 1013 such state to which those obligations, duties, powers, or  
 1014 jurisdiction are delegated by law in effect at the time this  
 1015 compact becomes effective.

1016 (2) Other laws.—

1017 (a) Nothing in this compact prevents the enforcement of  
 1018 any other law of a compacting state, except as provided in  
 1019 paragraph (b).

1020 (b) For any product approved or certified to the  
 1021 commission, the rules, uniform standards, and any other  
 1022 requirements of the commission shall constitute the exclusive  
 1023 provisions applicable to the content, approval, and  
 1024 certification of such products. For advertisement that is  
 1025 subject to the commission's authority, any rule, uniform  
 1026 standard, or other requirement of the commission which governs  
 1027 the content of the advertisement shall constitute the exclusive  
 1028 provision that a commissioner may apply to the content of the  
 1029 advertisement. Notwithstanding this paragraph, no action taken  
 1030 by the commission shall abrogate or restrict:

- 1031 1. The access of any person to state courts;
- 1032 2. Remedies available under state law related to breach of  
 1033 contract, tort, or other laws not specifically directed to the  
 1034 content of the product;
- 1035 3. State law relating to the construction of insurance  
 1036 contracts; or

1037 4. The authority of the attorney general of the state,  
 1038 including, but not limited to, maintaining any actions or  
 1039 proceedings, as authorized by law.

1040 (c) All insurance products filed with individual states  
 1041 shall be subject to the laws of those states.

1042 Section 3. Election to opt out of all uniform standards  
 1043 adopted by the commission involving long-term care insurance  
 1044 products; adoption of existing uniform standards of the  
 1045 commission; procedure for adoption of new or amended uniform  
 1046 standards; notification of new or amended uniform standards.—

1047 (1) Pursuant to Article VII of the compact authorized in  
 1048 this act, the State of Florida prospectively opts out of all  
 1049 uniform standards adopted by the commission involving long-term  
 1050 care insurance products, and such opt out shall not be treated  
 1051 as a material variance in the offer or acceptance of this state  
 1052 to participate in the compact.

1053 (2) Except as provided in subsection (1), all uniform  
 1054 standards adopted by the commission as of March 1, 2013 are  
 1055 adopted by this state.

1056 (3) Notwithstanding subsections (3), (4), (5), and (6) of  
 1057 Article VII, as a participant in this compact, it is the policy  
 1058 of the State of Florida to opt out, and the office shall opt out  
 1059 of any new uniform standard adopted by the commission after  
 1060 March 1, 2013, or amendments to existing uniform standards  
 1061 adopted by the commission after March 1, 2013, where such  
 1062 amendments substantially alter or add to existing uniform  
 1063 standards adopted by this state in subsection (2) until such  
 1064 time as this state enacts legislation to adopt or opt out of new

1065 uniform standards or such amendments to uniform standards  
 1066 adopted by the commission after March 1, 2013.

1067 (4) The Financial Services Commission may adopt rules to  
 1068 implement this act. It is the policy of the State of Florida  
 1069 that this state's participation in new uniform standards or  
 1070 amendments to uniform standards adopted after March 1, 2013, as  
 1071 set out in subsection (3) that have not been legislatively  
 1072 approved by this state may not reasonably protect the citizens  
 1073 of this state based on Article XVI(1)(d) of this act. The  
 1074 Financial Services Commission shall use the rulemaking authority  
 1075 granted in this subsection to opt out of any new uniform  
 1076 standards or amendments to existing uniform standards where such  
 1077 amendments substantially alter or add to existing uniform  
 1078 standards adopted by the State of Florida in subsection (2)  
 1079 until such uniform standards are legislatively approved by this  
 1080 state.

1081 (5) After enactment of this section, if the commission  
 1082 adopts any new uniform standard or amendment to uniform  
 1083 standards as set out in subsection (3), the office shall  
 1084 immediately notify the Legislature of such new uniform standard  
 1085 or amendment to an existing uniform standard. If the office or a  
 1086 court of competent jurisdiction finds that the procedure set out  
 1087 in subsection (3) has not been followed, notice shall be given  
 1088 to the Legislature, and reasonable and prompt measures shall be  
 1089 taken to opt out of a uniform standard that has not been  
 1090 legislatively approved by the State of Florida.

1091 Section 4. Notwithstanding subsection (4) of Article XII,  
 1092 the commission is subject to:

1093        (a) State unemployment or reemployment taxes imposed  
 1094 pursuant to chapter 443, Florida Statutes, in compliance with  
 1095 the Federal Unemployment Tax Act, for any persons employed by  
 1096 the commission who perform services for the commission within  
 1097 this state.

1098        (b) Taxation for any commission business or activity  
 1099 conducted or performed in the State of Florida.

1100        Section 5. (1) Notwithstanding subsections (1) and (2) of  
 1101 Article VIII, subsection (2) of Article X, and subsection (6) of  
 1102 Article XII of this act, a request by a resident of this state  
 1103 for public inspection and copying of information, data, or  
 1104 official records that includes:

1105        (a) An insurer's trade secrets shall be referred to the  
 1106 commissioner who shall respond to the request, with the  
 1107 cooperation and assistance of the commission, in accordance with  
 1108 section 624.4213, Florida Statutes, or

1109        (b) Matters of privacy of individuals shall be referred to  
 1110 the commissioner who shall respond to the request, with the  
 1111 cooperation and assistance of the commission, in accordance with  
 1112 section 119.071, Florida Statutes.

1113        (2) Nothing in this act abrogates a person's right to  
 1114 access information consistent with the State Constitution and  
 1115 laws of the State of Florida.

1116        Section 6. The Financial Services Commission may adopt  
 1117 rules to implement this act. The Financial Services Commission  
 1118 may use the rulemaking authority granted in this section to opt  
 1119 out of any new uniform standards adopted after the effective  
 1120 date of this act, pursuant to Article VII, until such standards

CS/HB 383

2013

1121 | are approved by the Legislature.

1122 | Section 7. This act shall take effect October 1, 2013.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 433 Inspector General of Citizens Property Insurance Corporation  
**SPONSOR(S):** Insurance & Banking Subcommittee; Richardson and others  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	13 Y, 0 N, As CS	Callaway	Cooper
2) Regulatory Affairs Committee		Callaway <i>hde</i>	Hamon <i>R.W.H.</i>

### SUMMARY ANALYSIS

Citizens Property Insurance Corporation (Citizens) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market. Although it operates like a private insurance company, it is not a private insurance company. As of December 31, 2012, Citizens is the largest property insurer in Florida with over 1.3 million policies and over \$429 billion in exposure. Citizens insures almost 450,000 residential and commercial policies in Florida's coastal areas and over 860,000 residential policies in Florida's non-coastal areas. The remaining 8,000 policies are commercial policies insured in Florida's non-coastal areas.

Citizens does not currently have an inspector general and is not required by law to have one. However, current law requires Citizens to have a Chief of Internal Audit and provides job duties and responsibilities for this position.

Citizens operates under the direction of an eight member Board of Governors (Board). The Governor, Chief Financial Officer, Senate President, and Speaker of the House of Representatives each appoint two members of the Board. Only the Citizens' President/CEO/Executive Director and the Chief of Internal Audit report directly to the Citizens' Board. Other Citizens' senior managers report directly to the President/CEO/Executive Director.

The bill creates an inspector general for Citizens. The bill outlines the job qualifications and duties and responsibilities of the position. The Citizens' inspector general is appointed by the Financial Services Commission (FSC), comprised of the Governor and Cabinet, and can be removed from office only by the FSC. However, the inspector general will report to and be supervised the chairman of the Citizens' Board. The Citizens' Chief of Internal Audit is mandated to cooperate and coordinate activities with the Citizens' inspector general to avoid overlap of duties and responsibilities of these positions.

The bill has no fiscal impact on state or local governments. Citizens will incur salary and benefit costs associated with the inspector general position created by the bill.

The bill is effective July 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

Citizens Property Insurance Corporation (Citizens) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market. Although it operates like a private insurance company, it is not a private insurance company.<sup>1</sup>

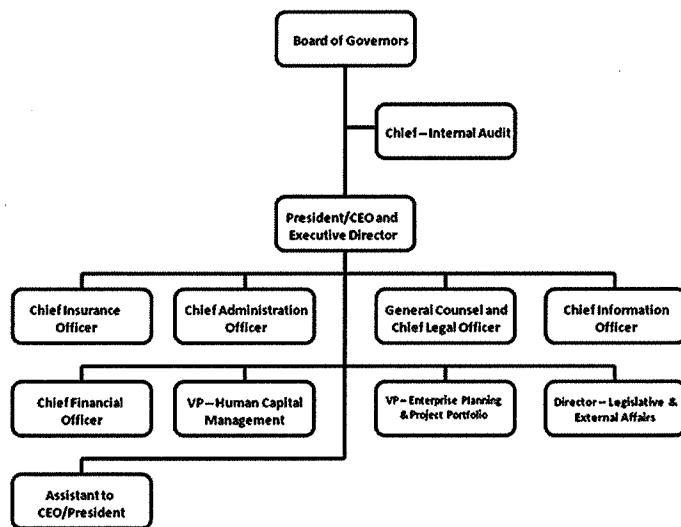
As of December 31, 2012, Citizens is the largest property insurer in Florida with over 1.3 million policies and over \$429 billion in exposure. Citizens insures almost 450,000 residential and commercial policies in Florida's coastal areas and over 860,000 residential policies in Florida's non-coastal areas. The remaining 8,000 policies are commercial policies insured in Florida's non-coastal areas.<sup>2</sup>

Citizens operates under the direction of an eight member Board of Governors (Board). The Governor, Chief Financial Officer, Senate President, and Speaker of the House of Representatives each appoint two members of the Board. Board members serve three year staggered terms.<sup>3</sup> At least one of the two board members appointed by each appointing officer must have demonstrated expertise in insurance. The board members are not Citizens' employees and are not paid.

Only the Citizens' President/CEO/Executive Director and the Chief of Internal Audit report directly to the Citizens' Board. The following senior managers report directly to the President/CEO/Executive Director:

- Chief Insurance Officer,
- Chief Administration Officer,
- General Counsel and Chief Legal Officer,
- Chief Information Officer,
- Chief Financial Officer,
- Vice President of Human Capital Management,
- Vice President of Enterprise Planning and Project Portfolio, and
- Director of Legislative and External Affairs.

An organizational chart of the senior managers at Citizens is as follows:



<sup>1</sup> s. 627.351(6)(a)1., F.S.

<sup>2</sup> <https://www.citizensfla.com/about/corpfinitials.cfm> (last viewed February 1, 2013)

<sup>3</sup> s. 627.351 (6)(c)4., F.S.

Citizens does not currently have an inspector general and is not required by law to have one. Current law, however, requires Citizens to have a Chief of Internal Audit. The Chief of Internal Audit position was created in Citizens in 2006.<sup>4</sup> Citizens' first Chief of Internal Audit started in January, 2007. The position has been filled almost continuously since that time, with Citizens employing four Chiefs of Internal Audit since 2007.<sup>5</sup>

Generally, the duties of the Chief of Internal Audit include: fostering and promoting accountability and integrity in Citizens; holding the Citizen's leadership, management and staff accountable for efficient, cost-effective operation; and preventing, identifying, and eliminating fraud, waste, corruption, illegal acts, and abuse. Specific duties and responsibilities for the position are contained in s. 627.351(6)(i), F.S. The Chief of Internal Audit carries out his duties primarily through audits, management reviews and investigations.

From December 2010 until October 2012, Citizens also had an Office of Corporate Integrity (Office).<sup>6</sup> The Office handled employee complaints, particularly those that could indicate ethics violations and internal fraud. From December 2010 until July 2012, the employees in this office reported to Citizens' General Counsel and Chief Legal Officer. Thereafter, they reported to the Citizens' Chief of Internal Audit. The Office was disbanded by Citizens' Board in October 2012, but its functions were absorbed by other Citizens' staff, including the Office of Internal Audit, the Ethics Officer, and the Employee Relations Office.<sup>7</sup>

### Governor's Inspector General Report

In September 2012, Governor Rick Scott asked his Office of the Chief Inspector General (Inspector General) to review travel expenses incurred by Citizens' Board members, Senior Managers, and employees to determine whether the expenses were incurred in accordance with Citizens' travel policies.<sup>8</sup> The Governor requested the review after newspapers published articles relating to Citizens' employees' travel expenses.<sup>9</sup> The Inspector General issued a report on January 15, 2013.<sup>10</sup> The report found travel expenses incurred by Citizens' Board and staff were generally compliant with the Citizens' travel policies in effect when the travel was incurred. But, the Inspector General also found Citizens' travel policies were ambiguous and lacked specific requirements to ensure travel was necessary and conducted in the most economical manner. Additionally, the report noted the policies allowed for travel expenses in excess of the State of Florida travel guidelines. The Inspector General recommended Citizens be required to follow state travel laws and that Citizens' travel policies be updated to reflect that state travel laws apply to Board Members, Senior Managers, and all employees. The Inspector General also recommended Citizens enhance their internal controls to address the findings in the report.

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<sup>4</sup> See Section 15, Ch. 2006-12, L.O.F.

<sup>5</sup> The Chief of Internal Audit position was not filled between 6/9/2007 and 11/4/2007 due to a lapse between the resignation of one Chief and the hiring of a replacement.

<sup>6</sup> The Office of Corporate Integrity began as the Office of Corporate Compliance within the Administration/Human Resources Department in Citizens. The Office of Corporate Compliance was established in June 2008.

<sup>7</sup> Press Release from Citizens dated October 18, 2012, available at [https://www.citizensfla.com/about/pressreleases.cfm?show=text&link=/shared/press/articles/new/10\\_18\\_2012.cfm&showyear=2012](https://www.citizensfla.com/about/pressreleases.cfm?show=text&link=/shared/press/articles/new/10_18_2012.cfm&showyear=2012) (last viewed January 22, 2013). The Office was disbanded by the Citizens' Board upon a recommendation of the Audit Committee of the Board.

<sup>8</sup> The Inspector General reviewed approximately 350 expense reports of travel and travel related expenses for Citizens' eight Board members, 13 Senior Managers and 18 other employees.

<sup>9</sup> "Expense reports for Citizens Property Insurance's top executives show lavish spending," August 26, 2012, available at <http://www.tampabay.com/news/business/banking/expense-reports-for-citizens-property-insurances-top-executives-show/1247636> (last viewed January 22, 2013); "Citizens Property Insurance interim president chalks up almost \$10,000 in travel expenses in two months," June 20, 2012, available at <http://www.tampabay.com/news/business/banking/citizens-property-insurance-interim-president-chalks-up-almost-10000-in/1236203> (last viewed January 22, 2013).

<sup>10</sup> Chief Inspector General Report No. 2013-10, available at <http://www.flgov.com/2013/01/17/statement-from-governor-rick-scott-regarding-inspector-general-report-on-citizens-corporate-travel/> (last viewed January 22, 2013).

### *Governor's Response to the Inspector General Report*

In response to the Inspector General Report on Citizens' travel expenses, Governor Scott proposed four reforms.<sup>11</sup> First, the Governor recommended Citizens immediately change their travel guidelines to comply with official state travel restrictions. Second, he recommended Citizens' Board members to change their travel policy to prohibit any international travel. Third, he suggested Citizens' travel policy be further tightened to allow only essential employees to attend board meetings. Lastly, the Governor recommended Citizens have its own independent statutory Inspector General to enforce existing rules and any additional reforms needed. On January 18, 2013, Citizens' President/CEO/Executive Director publically provided support for an Inspector General at Citizens.<sup>12</sup>

### Effect of Proposed Changes

The bill creates an inspector general for Citizens. The bill outlines the job qualifications and duties and responsibilities of the position. The Citizens' inspector general is appointed by the Financial Services Commission<sup>13</sup> (FSC) and can be removed from office only by the FSC. However, the inspector general will report to and be supervised the chairman of the Citizens' Board. The Citizens' Chief of Internal Audit is mandated to cooperate and coordinate activities with the Citizens' inspector general to avoid overlap of duties and responsibilities of these positions.

#### B. SECTION DIRECTORY:

**Section 1:** Amends s. 627.351, F.S., relating to insurance risk apportionment plans.

**Section 2:** Provides an effective date of July 1, 2013.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Citizens will incur salary and benefit costs associated with the Inspector General position created by the bill.

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<sup>11</sup> <http://www.flgov.com/2013/01/17/statement-from-governor-rick-scott-regarding-inspector-general-report-on-citizens-corporate-travel/> (last viewed January 22, 2013).

<sup>12</sup> [https://www.citizensfla.com/about/pressreleases.cfm?show=text&link=/shared/press/articles/new/01\\_18\\_2013.cfm](https://www.citizensfla.com/about/pressreleases.cfm?show=text&link=/shared/press/articles/new/01_18_2013.cfm) (last viewed January 22, 2013).

<sup>13</sup> The Financial Services Commission is comprised of the Governor and Cabinet (s. 20.121(3), F.S.).

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None provided in the bill.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 28, 2013, the Insurance & Banking Subcommittee considered the bill, adopted a strike all amendment, and reported the bill favorably with a committee substitute. The amendment removed all the provisions in the bill and replaced them with provisions that:

- Created an inspector general for Citizens in the Citizens' governing statute, rather than in the statute governing state agency inspectors general.
- Specified qualifications for the Citizens' inspector general.
- Specified duties and responsibilities for the Citizens' inspector general.
- Required the Citizens' Chief of Internal Audit to cooperate and coordinate with the Citizens' inspector general.
- Required the FSC to appoint the Citizens' inspector general.
- Authorized the FSC to remove the Citizens' inspector general.
- Required the Citizens' inspector general to report to and be under the supervision of the chairman of the Citizens' Board.

The staff analysis was updated to reflect the committee substitute.

1                                   A bill to be entitled  
 2           An act relating to the inspector general of Citizens  
 3           Property Insurance Corporation; amending s. 627.351,  
 4           F.S.; requiring the internal auditor of the  
 5           corporation to cooperate and coordinate activities  
 6           with the inspector general; establishing the Office of  
 7           Inspector General within the corporation; providing  
 8           for appointment and duties of the inspector general;  
 9           providing an effective date.

10

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

12

13           Section 1. Paragraph (i) of subsection (6) of section  
 14           627.351, Florida Statutes, is amended, and paragraph (gg) is  
 15           added to that subsection to read:

16           627.351 Insurance risk apportionment plans.—

17           (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

18           (i)1. The Office of the Internal Auditor is established  
 19           within the corporation to provide a central point for  
 20           coordination of and responsibility for activities that promote  
 21           accountability, integrity, and efficiency to the policyholders  
 22           and to the taxpayers of this state. The internal auditor shall  
 23           be appointed by the board of governors, shall report to and be  
 24           under the general supervision of the board of governors, and is  
 25           not subject to supervision by any employee of the corporation.  
 26           Administrative staff and support shall be provided by the  
 27           corporation. The internal auditor shall be appointed without  
 28           regard to political affiliation. It is the duty and

29 responsibility of the internal auditor to:

30 a. Provide direction for, supervise, conduct, and  
 31 coordinate audits, investigations, and management reviews  
 32 relating to the programs and operations of the corporation.

33 b. Conduct, supervise, or coordinate other activities  
 34 carried out or financed by the corporation for the purpose of  
 35 promoting efficiency in the administration of, or preventing and  
 36 detecting fraud, abuse, and mismanagement in, its programs and  
 37 operations.

38 c. Submit final audit reports, reviews, or investigative  
 39 reports to the board of governors, the executive director, the  
 40 members of the Financial Services Commission, and the President  
 41 of the Senate and the Speaker of the House of Representatives.

42 d. Keep the board of governors informed concerning fraud,  
 43 abuses, and internal control deficiencies relating to programs  
 44 and operations administered or financed by the corporation,  
 45 recommend corrective action, and report on the progress made in  
 46 implementing corrective action.

47 e. Report expeditiously to the Department of Law  
 48 Enforcement or other law enforcement agencies, as appropriate,  
 49 whenever the internal auditor has reasonable grounds to believe  
 50 there has been a violation of criminal law.

51 f. Cooperate and coordinate activities with the  
 52 corporation's inspector general.

53 2. On or before February 15, the internal auditor shall  
 54 prepare an annual report evaluating the effectiveness of the  
 55 internal controls of the corporation and providing  
 56 recommendations for corrective action, if necessary, and



57 summarizing the audits, reviews, and investigations conducted by  
 58 the office during the preceding fiscal year. The final report  
 59 shall be furnished to the board of governors and the executive  
 60 director, the President of the Senate, the Speaker of the House  
 61 of Representatives, and the Financial Services Commission.

62 (gg) The Office of Inspector General is established within  
 63 the corporation to provide a central point for coordination of  
 64 and responsibility for activities that promote accountability,  
 65 integrity, and efficiency. The office shall be headed by an  
 66 inspector general, which is a senior management position that  
 67 involves planning, coordinating, and performing activities  
 68 assigned to and assumed by the inspector general for the  
 69 corporation.

70 1. The inspector general shall be appointed by the  
 71 Financial Services Commission and may only be removed from  
 72 office by the commission. The inspector general shall be  
 73 appointed without regard to political affiliation.

74 a. At a minimum, the inspector general must possess a  
 75 bachelor's degree from an accredited college or university and 8  
 76 years of professional experience related to the duties of an  
 77 inspector general as described in this paragraph, of which 5  
 78 years must have been at a supervisory level.

79 b. The inspector general shall report to, and be under the  
 80 supervision of, the chair of the board of governors. The  
 81 executive director or corporation staff may not prevent or  
 82 prohibit the inspector general from initiating, carrying out, or  
 83 completing any review, evaluation, or investigation.

84 2. The inspector general shall initiate, direct,

85 coordinate, participate in, and perform studies, reviews,  
86 evaluations, and investigations designed to assess management  
87 practices; compliance with laws, rules, and policies; and  
88 program effectiveness and efficiency. This includes:

89 a. Conducting internal examinations; investigating  
90 allegations of fraud, waste, abuse, malfeasance, mismanagement,  
91 employee misconduct, or violations of corporation policies; and  
92 conducting any other investigations as directed by the Financial  
93 Services Commission or as independently determined.

94 b. Evaluating and recommending actions regarding security,  
95 the ethical behavior of personnel and vendors, and compliance  
96 with rules, laws, policies, and personnel matters and rendering  
97 ethics opinions.

98 c. Overseeing or participating in personnel and  
99 administrative policy compliance and management, operational  
100 reviews, and conducting and selecting human resources-related  
101 advice and consultation.

102 d. Evaluating the application of a corporation code of  
103 ethics, providing input on the design and content of ethics-  
104 related policy training courses, educating employees on the code  
105 and appropriate conduct, and checking for compliance.

106 e. Participating in policy development and review,  
107 including the creation, modification, and maintenance of  
108 personnel and administrative services policies and in the  
109 identification of policy enhancements, and researching policy-  
110 related issues.

111 f. Participating in the activities of the senior  
112 management team and evaluating the management's compliance with

113 recommended solutions.

114 g. Cooperating and coordinating activities with the chief  
 115 of internal audit, but not conducting internal audits.

116 h. Maintaining records of investigations and discipline in  
 117 accordance with established policies.

118 i. Supervising and directing the tasks and assignments of  
 119 the staff assigned to assist with the inspector general's  
 120 projects. This includes regular review and feedback regarding  
 121 work in progress and upon completion and providing input  
 122 regarding relevant training and staff development activities as  
 123 warranted.

124 j. Directing, planning, preparing, and presenting interim  
 125 and final reports and oral briefings to the Financial Services  
 126 Commission and the executive director, which communicate the  
 127 results of studies, reviews, and investigations.

128 k. Providing the executive director with independent and  
 129 objective assessments of programs and activities.

130 l. Completing special projects and assignments as directed  
 131 by the Financial Services Commission and performing other duties  
 132 as requested by the commission.

133 Section 2. This act shall take effect July 1, 2013.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 493 Security of Protected Consumer Information  
**SPONSOR(S):** Insurance & Banking Subcommittee; Fitzenhagen  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 566

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professional Regulation Subcommittee	10 Y, 0 N	Collins	Luczynski
2) Insurance & Banking Subcommittee	13 Y, 0 N, As CS	Bauer	Cooper
3) Regulatory Affairs Committee		Collins <i>RC</i>	Hamon <i>K.W.H.</i>

**SUMMARY ANALYSIS**

Currently, Section 501.005, F.S. provides consumers with procedures to request “security freezes” on consumer records that may have been compromised as a result of identity theft. Security freezes prohibit consumer reporting agencies (Equifax, Experian, and TransUnion) from releasing a credit report, subject to specified exemptions. However, this procedure presumes that the consumer has an existing credit file and history, and may not address the issue of identity theft committed against minors and other persons who may be represented by a guardian, and who do not have a credit history or are unable to request security freezes on their own. While parents typically apply for a Social Security number for their child shortly after birth, a credit reporting agency does not create a credit report or history until an application for credit is received. An identity thief will typically apply for credit with a child’s Social Security number, but with a different name and date of birth. As a result, the identity theft may go undetected for years. A recent study estimated that 142,000 instances of identity fraud are perpetrated on minors in the United States each year.

CS/HB 493 creates s. 501.0051, F.S., to provide a mechanism to protect the personal information of protected consumers, which is an individual less than sixteen years of age or a person represented by a guardian or other advocate pursuant to chs. 39, 393, or 744, F.S. The newly-created section provides definitions, procedures, requirements, damages, and limitations regarding security freezes on a protected consumer’s credit record. The bill also requires consumer reporting agencies to provide consumers with a written summary of rights under the newly created s. 501.0051, F.S.

The bill has no fiscal impact on state or local funds. The bill may have a positive impact on the private sector by providing additional safeguards for minors under age 16 and other persons represented by a guardian or advocate.

The bill has an effective date of September 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

###### *Credit reports and credit reporting agencies*

Credit reporting agencies (also known as credit bureaus) are entities that collect and disseminate information about consumers to be used for credit evaluation and other permissible purposes, such as employment or background checks for professional licenses. The three major credit reporting companies in the U.S. are Equifax, TransUnion, and Experian.

###### *Current federal law and security freezes*

In 1970, Congress enacted the federal Fair Credit Reporting Act (FCRA), which regulates the collection, dissemination, and use of consumer credit information, is enforced by the Federal Trade Commission, and provides a private cause of action for consumers. The FCRA was enacted to (1) prevent the misuse of sensitive consumer information by limiting recipients to those who have a legitimate need for it; (2) improve the accuracy and integrity of consumer reports; and (3) promote the efficiency of the nation's banking and consumer credit systems.

Consumer reports are used by financial institutions, insurance companies, employers, and other entities in making eligibility decisions affecting consumers. Information included in consumer reports generally may include consumers' credit history and payment patterns, as well as demographic and identifying information, and public record information (e.g., arrests, judgments, and bankruptcies).

In 2003, Congress passed the Fair and Accurate Credit Transactions Act (FACTA) to enhance FCRA and to require credit bureaus to provide one free report every 12 months. FCRA (as amended by FACTA) also states that a consumer, or any individual acting on behalf of or as a personal representative of a consumer, may assert a good-faith suspicion that he or she has been a victim of identity theft. This requires the credit bureau to place an "initial fraud alert" on the consumer's credit file for at least 90 days and for no charge.<sup>1</sup> According to the FTC, this initial fraud alert makes it harder for identity thieves to open more accounts in a consumer's name, since the existence of a fraud alert requires businesses to verify a consumer's identity before issuing credit.<sup>2</sup> In addition, FCRA requires credit bureaus to block the reporting of information contained in a credit file resulting from an alleged identity theft.<sup>3</sup> Consumers can also file an identity theft report (which consists of an affidavit and a police report) to the 3 credit bureaus in order to obtain an extended fraud alert placed on the credit report.

Both FCRA and FACTA provide that states may enact laws with respect to the collection, distribution, or use of any information on consumer, or for the prevention or mitigation of identity theft, so long as these state laws are not inconsistent with the federal acts.<sup>4</sup> Security freeze legislation, which goes beyond fraud alerts by blocking access to a consumer's credit file, is one example of allowable state laws.<sup>5</sup>

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<sup>1</sup> 15 U.S.C. §1681c-1.

<sup>2</sup> FTC Consumer Information: Place a Fraud Alert, <http://www.consumer.ftc.gov/articles/0275-place-fraud-alert> (last accessed on March 4, 2013).

<sup>3</sup> 15 U.S.C. §1681c-2.

<sup>4</sup> 15 U.S.C. §1681t(1).

<sup>5</sup> After the FACT Act: What States Can Still Do to Prevent Identity Theft, [http://www.consumersunion.org/pub/core\\_financial\\_services/000756.html](http://www.consumersunion.org/pub/core_financial_services/000756.html) (last accessed March 4, 2013).

As of October 16, 2011, forty-seven states (including Florida) and the District of Columbia have enacted laws requiring credit bureaus to provide consumers the option to place security freezes on their credit reports.<sup>6</sup> A security freeze restricts a consumer-reporting agency from releasing a credit report or any information from the report without authorization from the consumer. A freeze also requires authorization to change information—such as the consumer's name, date of birth, Social Security number, and address—in a consumer report. A security freeze remains on a credit report until the consumer removes it. Generally, a person can "thaw" or temporarily remove the freeze to open a new credit account or a new loan. To do this, a consumer provides the consumer-reporting agency with special personal identifying number (PIN), which is required to verify the consumer's identity. States have created exemptions for specified organizations that still can access credit report information even if a freeze is in place. Typically, these organizations include law enforcement agencies, child support enforcement, insurance, and subsidiaries and affiliates of companies that have existing accounts with the consumer.

### Current Florida law

Florida consumers have a statutory right to have security freeze placed on their consumer reports by sending a written request by certified mail to a credit reporting agency.<sup>7</sup> A "security freeze" is a notice placed in a consumer report that prohibits a consumer reporting agency from releasing the consumer report, credit score, or any information contained in the report to a third party without the express authorization of the consumer.<sup>8</sup> Any disclosure by a consumer reporting agency to a resident of the state must include a written summary of all rights the consumer has, including the right to place a security freeze on his or her consumer report.<sup>9</sup> A credit reporting agency may charge a fee, not to exceed \$10, when a consumer elects to temporarily lift or remove a security freeze on his or her credit report. However, the law prohibits a consumer-reporting agency from charging a fee to a consumer age 65 or older or to a victim of identity theft for the placement or removal of a security freeze.

In addition to any other penalties or remedies provided under law, a person who is aggrieved by a violation of the provisions of s. 501.005, F.S., may bring a civil action as authorized by s. 501.005(16), F.S. Any person who willfully fails to comply with any requirement imposed under s. 501.005, F.S., with respect to any consumer is liable to that consumer for actual damages sustained by the consumer as a result of the failure of not less than \$100 and not more than \$1,000, plus the cost of the action together with reasonable attorney's fees. Any person who is negligent in failing to comply with any requirement imposed under this s. 501.005, F.S., with respect to any consumer is liable to that consumer for any actual damages sustained by the consumer because of the failure of not less than \$100 and not more than \$1,000.

Also, s. 501.005, F.S., provides that any individual who obtains a consumer report under false pretenses or knowingly without a permissible purpose is liable to the consumer for actual damages sustained by the consumer as a result of the failure or damages of not less than \$100 and not more than \$1,000, whichever is greater. Any person who obtains a consumer report from a consumer reporting agency under false pretenses or knowingly without a permissible purpose is liable to the consumer reporting agency for actual damages sustained by the consumer reporting agency or \$1,000, whichever is greater. Section 501.005(16), F.S., allows for the assessment of punitive damages for willful violations of s. 501.005, F.S. Upon a finding by the court that an unsuccessful pleading, motion was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party

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<sup>6</sup> Consumers Union's Guide to Security Freeze Protection, at [http://www.consumersunion.org/campaigns/learn\\_more/003484indiv.html](http://www.consumersunion.org/campaigns/learn_more/003484indiv.html) (last accessed March 4, 2013).

<sup>7</sup> Section 501.005, F.S.

<sup>8</sup> Section 501.005(1), F.S. Additionally, Section 501.005(12), F.S., allows for the release of information that would otherwise be protected by a security freeze to the existing creditors of the consumer, persons who have been granted access to the information according to law, state agencies acting within their lawful investigatory or regulatory authority, law enforcement agencies, persons maintaining credit monitoring services or who provide credit reports to consumers on their request, to persons designated by court order, for credit prescreening or insurance underwriting purposes, and to certain other specified entities.

<sup>9</sup> See, generally: s. 501.005(17), Florida Statutes.

attorney's fees that are reasonable in relation to the work performed in responding to the pleading, motion, or other paper.

### Identity Theft & Children

A recent study by AllClear ID, based on 27,000 American children, found that more than 10% of children are victims of identity theft, mostly among children ages 5 and younger.<sup>10</sup> While the current statutory security freeze process may be commonly used by adults, it is often not able to be utilized by minor consumers and consumers who are represented by a guardian or other advocate. Unlike the average adult, most minors and consumers represented by a guardian or other advocate do not have existing credit files. While parents typically apply for a Social Security number for their child shortly after birth, credit bureaus do not create credit files until an individual uses his or her Social Security number to apply for credit for the first time. When a credit file is created for a first-time credit applicant, the credit bureaus will verify the Social Security number, but not the name and date of birth assigned to it when issued. An identity thief will typically apply for credit with a child's Social Security number, but with a different name and date of birth. As a result, the identity theft may go undetected for years.<sup>11</sup> In addition, even when parents do detect that their child's identity has been compromised, consumer reporting agencies generally do not administer security freezes for consumers who do not have existing credit files. As a spokesman for TransUnion and Equifax explained, a security freeze "applies to a credit file, not a social security number."<sup>12</sup>

In addition, s. 817.568, F.S., addresses criminal use of personal identification and includes a provision specifically addressing minors:

- (6) Any person who willfully and without authorization fraudulently uses personal identification information concerning an individual who is less than 18 years of age without first obtaining the consent of that individual or of his or her legal guardian commits a felony of the second-degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (7) Any person who is in the relationship of parent or legal guardian, or who otherwise exercises custodial authority over an individual who is less than 18 years of age, who willfully and fraudulently uses personal identification information of that individual commits a felony of the second-degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

### Effect of Proposed Changes

The bill creates s. 501.0051, F.S., to authorize a representative of a minor consumer younger than sixteen years of age, or a guardian or other advocate of a consumer pursuant to chs. 39, 393, or 744, F.S., to place a security freeze on that consumer's credit report.

The bill also directs credit reporting agencies to create a credit record for the protected consumer in the event that the consumer does not yet have a credit report file. Similarly, a representative of a minor consumer less than sixteen years of age, or a guardian or other advocate of a consumer pursuant to chs. 39, 393, or 744, F.S., is provided the ability to place a security freeze on that consumer's newly-created credit record.

### Definitions

The bill defines the terms: "consumer reporting agency," "consumer report," "protected consumer," "record," "representative," "security freeze," "sufficient proof of authority," and "sufficient proof of

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<sup>10</sup> AllClear ID Alert Network, Child Identity Theft: Report 2012, available on <https://www.allclearid.com/child/child-id-theft-statistics-2012> (last accessed March 4, 2013).

<sup>11</sup> *Id.*

<sup>12</sup> <http://bucks.blogs.nytimes.com/2011/09/21/why-its-not-easy-to-freeze-your-childs-credit-file/> (Last accessed on February 7, 2013).



identification.” Except as noted below, the following definitions are identical to the current definitions in s. 501.005, F.S.

- “Consumer reporting agency” is defined as any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.
- “Consumer report” is defined as any written, oral or other communication by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing a consumer’s eligibility for credit or insurance, employment, or any other purpose authorized under 15 U.S.C. 1681(b).
- “Protected consumer” is defined as a person less than sixteen years of age at the time a security freeze request is made, or a person represented by a guardian or other advocate pursuant to chs. 39, 393, or 744, F.S.
- “Record” is defined as a compilation of information that 1) identifies a protected consumer, 2) is created by a consumer reporting agency for the purpose of complying with credit reporting requirements and 3) may *not* be created or used to consider the protected consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or eligibility for other financial services.
- “Representative” is defined as the custodial parent or legal guardian of a protected consumer, including a guardian ad litem.
- “Security freeze” is defined as a notice that may be placed on either 1) the protected consumer’s consumer report, which prohibits a consumer reporting agency from releasing the consumer report, credit score, or any information contained within the consumer report to a third party without the express authorization of the representative, or 2) the protected consumer’s record, which prohibits the consumer reporting agency from releasing the protected consumer’s record, in the event that a consumer reporting agency does not have an existing consumer report file pertaining to the protected consumer.
- “Sufficient proof of authority” is defined as documentation that shows that a representative has authority to act on behalf of a protected consumer, such as a court order, valid power of attorney, or a written notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of the protected consumer.
- “Sufficient proof of identification” is defined as documentation that identifies a protected consumer or a representative of a protected consumer, such as a social security card, a certified or official copy of a birth certificate, a copy of a valid driver license, or government-issued photo identification.

### *Creating a Security Freeze*

The bill provides the procedure to be used in the event that a representative, guardian or other advocate wants to place a security freeze on a protected consumer’s consumer record. Specifically, to place a security freeze on a consumer record, the representative must:

- Submit a request to the consumer reporting agency in the manner prescribed by that agency;
- Provide the agency with sufficient proof of authority and identification; and
- Pay the agency a fee.

If a consumer reporting agency doesn’t have a consumer report pertaining to a protected consumer when it receives the security freeze request, the agency must create a record for the protected consumer and place a security freeze on that newly-created record.

The security freeze must be placed within thirty days after the consumer reporting agency confirms the authenticity of the security freeze request.

Moreover, within ten days of the consumer reporting agency placing the security freeze, it is required to send the representative written confirmation of the implementation of the security freeze. It must also provide the representative with a unique personal identifier and instructions for removing the security freeze.

### *Removing a Security Freeze*

The bill also provides procedures to be used in the event that a representative wants to remove the security freeze. A consumer reporting agency may only remove a security freeze:

- Upon request of a representative;
- Upon request of a protected consumer; or
- If the security freeze was instituted due to a material misrepresentation of fact by a representative; however, the consumer reporting agency must first notify the representative in writing before removing the security freeze.

If the removal of a security freeze is requested by the representative, he or she must provide the consumer reporting agency with the following:

- Sufficient proof of identification and authority;
- The unique personal identifier; and
- Payment of a fee.

If the removal of a security freeze is requested by the protected consumer, he or she must provide the consumer reporting agency with the following:

- Sufficient proof of identification; and
- Documentation that the authority for the protected consumer's representative to act on behalf of the protected consumer is no longer valid.

The security freeze must be removed within thirty days after receiving the request for removal.

### *Exemptions from Section*

The bill provides that the provisions of s. 501.0051, F.S., do not apply to the use of consumer credit information by:

- A state agency acting within its lawful investigative or regulatory authority;
- A state or local law enforcement agency investigating a crime or conducting a criminal background check;
- Any person administering a credit file monitoring subscription, to which the protected consumer has subscribed;
- Any person, for the purpose of providing the protected consumer's consumer report upon the representative's request;
- Any person with a court order;
- An insurance company, for the purpose of settling or adjusting a rate, adjusting a claim, or underwriting for insurance purposes;
- A consumer reporting agency's database or file which consists entirely of information concerning, and is used exclusively for: 1) criminal record information, 2) personal loss history information, 3) fraud prevention or detection, 4) tenant screening, 5) employment screening, 6) personal insurance policy information, or 7) noncredit information used for insurance purposes;
- A check services company that issues authorizations, for the purpose of approving or processing checks, electronic funds transfers, or similar methods of payment;

- A deposit account information service company that issues reports regarding account closures due to fraud, substantial overdrafts, automatic teller machine abuse, or other negative information regarding a protected consumer to an inquiring financial institution, for limited purposes;
- A consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer reporting agency; or
- A fraud prevention services company issuing reports to prevent or investigate fraud.

### *Fees*

The bill authorizes consumer reporting agencies to charge a representative who elects to place or remove a security freeze a "reasonable fee," which may not exceed ten dollars.

Additionally, consumer reporting agencies are granted the ability to charge a representative a "reasonable fee," not to exceed ten dollars, to be imposed if the representative fails to retain the original personal identifier granted when the security freeze was placed, and the agency has to reissue that original personal identifier.

However, the bill does not allow for a consumer reporting agency to charge the representative any fee if the representative submits a copy of an investigative report, incident report, or other complaint with a law enforcement agency about the unlawful use of the protected consumer's identifying information by another person. The documentation must be submitted at the time the security freeze is requested.

The bill does not provide a consumer reporting agency the ability to charge a protected consumer directly, for any reason.

### *Changes to a Protected Consumer's Consumer Record*

If a security freeze is in effect, the bill prohibits a consumer reporting agency from changing the protected consumer's name, address, date of birth, or social security number in his or her consumer record, unless the agency first sends a written confirmation of the change to the representative within thirty days after the change is posted to the consumer record.

However, written confirmation is not required to be made regarding technical corrections of a protected consumer's information. Technical corrections include name and street abbreviations, complete spellings, or transposition of numbers or letters.

### *Violations of the Security Freeze*

In the event that a consumer reporting agency violates the security freeze by releasing credit information without proper authorization, the bill provides that the consumer reporting agency is required to notify the representative, in writing, within five business days after discovering or being notified of the release of information.

Moreover, the bill provides for fines and damages, in certain circumstances. Specifically:

- A credit reporting agency that willfully fails to comply with the security freeze provisions is subject to a \$500 administrative fine, issued pursuant to ch. 120, F.S., by the Department of Agriculture and Consumer Services.
- Anyone who obtains a record under false pretenses, or knowingly without a permissible purpose, is liable to: 1) the representative and the protected consumer for the greater of \$1,000 or the actual damages sustained by the protected consumer as a result of the failure, and 2) the consumer reporting agency for actual damages or \$1,000, whichever is greater.

### *Effects on Credit Score, Credit History, and Credit Rating*

The bill also provides that a consumer reporting agency may not state or otherwise imply that a security freeze reflects a negative credit score, history, or rating.

### *Written Summary of Rights*

The bill requires consumer reporting agencies to provide consumers with written summary of rights, including the right to sue under the new statute. Additionally, the bill amends the terms of the summary of rights to include that a representative has a right to place a security freeze on the consumer report of the person that he or she is legally authorized to care for, pursuant to the provisions in s. 501.0051, F.S.

Moreover, the summary of rights must indicate that if no consumer report exists for the protected consumer, that the representative has a right to request that a record be created and that a security freeze be placed on that consumer record.

### **Differences between CS/HB 493 and current law**

The following differences are noted between the bill and current s. 501.005, F.S.:

- Current law allows adults to temporarily lift a security freeze, but the bill does not.
  - According to the industry proponents, this is because minors generally do not have the same need to temporarily lift a security freeze as adults do. An adult may request to temporarily lift a security freeze to open a new credit account or loan.<sup>13</sup>
- Current law requires credit reporting agencies to *place a freeze* within 5 days of confirming that a request for a freeze is valid. However, the bill requires credit reporting agencies to place a freeze on a protected consumer's record within 30 days after confirming that a request for a freeze is valid.
- Current law requires credit reporting agencies to *remove* a freeze within 3 days of confirming the validity of a request. However, the bill requires credit reporting agencies to remove a freeze on a protected consumer's record within 30 days after confirming that request to remove a freeze is valid.
  - According to industry proponents, the difference in the time periods to place or to remove security freezes for adults and for protected consumer is due to the additional time needed to verify the proof of authority of a protected consumer's representative.<sup>14</sup>
- Current law requires a request for a security freeze to be submitted to a credit reporting agency in writing by certified mail. The bill requires that a protected consumer's representative to submit the request in the manner prescribed by the agency.
  - According to industry proponents, not all credit reporting agencies currently have the capability to accept requests for security freezes electronically, although those capabilities are in development. As a practical matter and for the time being, credit reporting agencies will likely require requests for to be submitted by certified mail.<sup>15</sup>
- Current law provides civil remedies for punitive damages, attorney's fees, and actual damages for a credit reporting agency's negligent failure to comply with s. 501.005, F.S. The bill provides for a recovery of the greater of \$1,000 or the actual damages sustained by the protected consumer, when an individual obtains a record under false pretenses or knowingly without a permissible purpose.

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<sup>13</sup> Meeting with industry proponents and DOACS, on March 25, 2013.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

**B. SECTION DIRECTORY:**

**Section 1:** creates s. 501.0051, F.S., to provide definitions, procedures, requirements, exemptions enforcement and damages, and limitations regarding security freezes on a protected consumer's credit record; creates written disclosure requirements for consumer reporting agencies pertaining to consumer rights associated with a security freeze, and includes a disclaimer involving protected consumer security freezes.

**Section 2:** provides an effective date of September 1, 2013.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None. The Department of Agriculture and Consumer Services anticipates using existing resources to investigate alleged violations of the provisions of this bill.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill will expand consumer protections to individuals under the age of sixteen and certain protected adults; specifically helping to protect these groups from identity theft and fraudulent credit card use.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of sales tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None provided by the bill.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

- The new statute requires consumer reporting agencies to provide written disclosures that include a summary of rights directed to parents, legal guardians, and advocates pursuant to chs. 39, 393, 744, or 914, F.S. However, the bill only defines "protected consumer" to include a person represented by a guardian or other advocate pursuant to ch. 39, ch. 393, or ch. 744, but not ch. 914.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 28, 2013, the Insurance & Banking Subcommittee considered and adopted one amendment, and reported the bill favorably as a committee substitute. The amendment:

- Set the Department of Agriculture and Consumer Services' authority to impose an administrative fine on consumer reporting agencies at \$500, instead of up to \$500.
- Clarified the civil remedy under the new statute.
- Increased the actual damages that a protected consumer's representative may recover against identity thieves.
- Created mandatory disclosures specifically within the new statute for protected consumer security freezes.

This analysis is drafted to the committee substitute as passed by the Insurance & Banking Subcommittee.

1                                   A bill to be entitled  
2       An act relating to security of protected consumer  
3       information; creating s. 501.0051, F.S.; providing  
4       definitions; authorizing the representative of a  
5       protected consumer to place a security freeze on the  
6       protected consumer's consumer record; requiring a  
7       consumer reporting agency to establish a record if the  
8       protected consumer does not have an existing consumer  
9       report; requiring a consumer reporting agency to  
10      provide written confirmation of a security freeze  
11      within a specified period; prohibiting a consumer  
12      reporting agency from stating or implying that a  
13      security freeze reflects a negative credit history or  
14      rating; requiring a consumer reporting agency to  
15      remove a security freeze under specified conditions;  
16      providing for applicability; authorizing a consumer  
17      reporting agency to charge a fee for placing or  
18      removing a security freeze and for reissuing personal  
19      identification information; prohibiting a fee under  
20      certain circumstances; requiring written notification  
21      to change specified information in a protected  
22      consumer's record; providing exemptions; requiring a  
23      consumer reporting agency to notify a representative  
24      and provide specified information if the consumer  
25      reporting agency violates a security freeze; providing  
26      penalties and civil remedies; providing written  
27      disclosure requirements for consumer reporting  
28      agencies relating to protected consumer security

29 freezes; providing an effective date.

30

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

32

33 Section 1. Section 501.0051, Florida Statutes, is created  
34 to read:

35 501.0051 Protected consumer security freeze.-

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

37 (a) "Consumer reporting agency" has the same meaning as  
38 provided in 15 U.S.C. s. 1681a(f).

39 (b) "Consumer report" has the same meaning as provided in  
40 15 U.S.C. s. 1681a(d).

41 (c) "Protected consumer" means a person younger than 16  
42 years of age at the time a security freeze request is made or a  
43 person represented by a guardian or other advocate pursuant to  
44 chapter 39, chapter 393, or chapter 744.

45 (d) "Record" means a compilation of information that:

46 1. Identifies a protected consumer;

47 2. Is created by a consumer reporting agency exclusively  
48 for the purpose of complying with this section; and

49 3. May not be created or used to consider the protected  
50 consumer's credit worthiness, credit standing, credit capacity,  
51 character, general reputation, personal characteristics, or  
52 eligibility for other financial services.

53 (e) "Representative" means the custodial parent or legal  
54 guardian of a protected consumer, including a guardian appointed  
55 pursuant to s. 914.17.

56 (f) "Security freeze" means:



57 1. A notice that is placed on the protected consumer's  
 58 consumer report that prohibits a consumer reporting agency from  
 59 releasing the consumer report, credit score, or any information  
 60 contained within the consumer report to a third party without  
 61 the express authorization of the representative; or

62 2. A notice that is placed on the protected consumer's  
 63 record that prohibits the consumer reporting agency from  
 64 releasing the protected consumer's record except as provided in  
 65 this section, if a consumer reporting agency does not have a  
 66 file pertaining to the protected consumer.

67 (g) "Sufficient proof of authority" means documentation  
 68 that shows that a representative has authority to act on behalf  
 69 of a protected consumer. Sufficient proof of authority includes,  
 70 but is not limited to, a court order, valid power of attorney,  
 71 or a written notarized statement signed by a representative that  
 72 expressly describes the authority of the representative to act  
 73 on behalf of the protected consumer.

74 (h) "Sufficient proof of identification" means  
 75 documentation that identifies a protected consumer or a  
 76 representative of a protected consumer. Sufficient proof of  
 77 identification includes, but is not limited to, a copy of a  
 78 social security card, a certified or official copy of a birth  
 79 certificate, a copy of a valid driver license, or a government-  
 80 issued photo identification.

81 (2) A representative may place a security freeze on a  
 82 protected consumer's consumer record by:

83 (a) Submitting a request to a consumer reporting agency in  
 84 the manner prescribed by that agency;

85 (b) Providing the agency with sufficient proof of  
 86 authority and sufficient proof of identification; and

87 (c) Paying the agency a fee as authorized under this  
 88 section.

89 (3) If a consumer reporting agency does not have a  
 90 consumer report pertaining to a protected consumer when the  
 91 consumer reporting agency receives a request for a security  
 92 freeze under subsection (2), the consumer reporting agency shall  
 93 create a record for the protected consumer and place a security  
 94 freeze on the record.

95 (4) A consumer reporting agency shall place a security  
 96 freeze on a consumer record within 30 days after confirming the  
 97 authenticity of a security freeze request made in accordance  
 98 with this section.

99 (5) The consumer reporting agency shall send a written  
 100 confirmation of the security freeze to the representative within  
 101 10 business days after instituting the security freeze and shall  
 102 provide the representative with instructions for removing the  
 103 security freeze and a unique personal identifier to be used by  
 104 the representative when providing authorization for removal of a  
 105 security freeze.

106 (6) A consumer reporting agency may not state or imply to  
 107 any person that a security freeze on a protected consumer's  
 108 consumer record reflects a negative credit score, negative  
 109 credit history, or a negative credit rating.

110 (7) A consumer reporting agency shall remove a security  
 111 freeze placed on a consumer record of a protected consumer only  
 112 in the following instances:

113 (a) Upon request of a representative pursuant to paragraph  
 114 (8) (a).

115 (b) Upon request of a protected consumer pursuant to  
 116 paragraph (8) (b).

117 (c) If the security freeze was instituted due to a  
 118 material misrepresentation of fact by a representative. If a  
 119 consumer reporting agency intends to remove a security freeze  
 120 pursuant to this paragraph, the consumer reporting agency shall  
 121 notify the representative in writing before removing the  
 122 security freeze.

123 (8) A security freeze placed in accordance with this  
 124 section shall remain in place until a representative or  
 125 protected consumer requests that it be removed. A consumer  
 126 reporting agency shall remove a security freeze within 30 days  
 127 after receiving a request for removal from a protected consumer  
 128 or representative.

129 (a) A representative submitting a request for removal must  
 130 provide the following:

131 1. Sufficient proof of identification and sufficient proof  
 132 of authority as determined by the consumer reporting agency.

133 2. The unique personal identifier provided by the consumer  
 134 reporting agency pursuant to subsection (5).

135 3. Payment of a fee as authorized by this section.

136 (b) A protected consumer submitting a request for removal  
 137 must provide the following:

138 1. Sufficient proof of identification as determined by the  
 139 consumer reporting agency.

140 2. Documentation that the sufficient proof of authority

141 for the protected consumer's representative to act on behalf of  
 142 the protected consumer is no longer valid.

143 (9) This section does not apply to use of a consumer  
 144 record by the following persons or for the following reasons:

145 (a) A state agency acting within its lawful investigative  
 146 or regulatory authority.

147 (b) A state or local law enforcement agency investigating  
 148 a crime or conducting a criminal background check.

149 (c) Any person administering a credit file monitoring  
 150 subscription service to which the protected consumer has  
 151 subscribed.

152 (d) Any person for the purpose of providing the protected  
 153 consumer's consumer report upon the representative's request.

154 (e) Any person with a court order lawfully entered.

155 (f) Any insurance company for use in setting or adjusting  
 156 a rate, adjusting a claim, or underwriting for insurance  
 157 purposes.

158 (g) A consumer reporting agency's database or file which  
 159 consists entirely of information concerning, and is used  
 160 exclusively for, one or more of the following:

161 1. Criminal record information.

162 2. Personal loss history information.

163 3. Fraud prevention or detection.

164 4. Tenant screening.

165 5. Employment screening.

166 6. Personal insurance policy information.

167 7. Noncredit information used for insurance purposes.

168 (h) A check services company that issues authorizations

169 for the purpose of approving or processing negotiable  
170 instruments, electronic funds transfers, or similar methods of  
171 payment.

172 (i) A deposit account information service company that  
173 issues reports regarding account closures due to fraud,  
174 substantial overdrafts, automatic teller machine abuse, or  
175 similar negative information regarding a protected consumer to  
176 an inquiring financial institution, as defined in s. 655.005 or  
177 in federal law, for use only in reviewing a representative's  
178 request for a deposit account for the protected consumer at the  
179 inquiring financial institution.

180 (j) A consumer reporting agency that acts only as a  
181 reseller of credit information by assembling and merging  
182 information contained in the database of another consumer  
183 reporting agency or multiple consumer reporting agencies and  
184 does not maintain a permanent database of credit information  
185 from which new consumer reports are produced. However, a  
186 consumer reporting agency shall honor any security freeze placed  
187 or removed by another consumer reporting agency.

188 (k) A fraud prevention services company issuing reports to  
189 prevent or investigate fraud.

190 (10) (a) A consumer reporting agency may charge a  
191 reasonable fee, not to exceed \$10, to a representative who  
192 elects to place or remove a security freeze.

193 (b) A consumer reporting agency may charge a reasonable  
194 fee, not to exceed \$10, if the representative fails to retain  
195 the original personal identifier provided by the consumer  
196 reporting agency and the agency must reissue the personal

197 identifier or provide a new personal identifier to the  
 198 representative.

199 (c) A consumer reporting agency may not charge any fee  
 200 under this section to a representative of a protected consumer  
 201 who is a victim of identity theft if the representative submits,  
 202 at the time the security freeze is requested, a copy of a valid  
 203 investigative report or incident report or complaint with a law  
 204 enforcement agency about the unlawful use of the protected  
 205 consumer's identifying information by another person.

206 (11) If a security freeze is in effect, a consumer  
 207 reporting agency may not change any of the following official  
 208 information in the consumer record without sending a written  
 209 confirmation of the change to the representative within 30 days  
 210 after the change is posted to the protected consumer's record:

- 211 (a) The protected consumer's name.
- 212 (b) The protected consumer's address.
- 213 (c) The protected consumer's date of birth.
- 214 (d) The protected consumer's social security number.

215  
 216 Written confirmation is not required for technical corrections  
 217 of a protected consumer's official information, including name  
 218 and street abbreviations, complete spellings, or transposition  
 219 of numbers or letters. In the case of an address change, the  
 220 written confirmation must be sent to both the new address and  
 221 the former address.

222 (12) If a consumer reporting agency violates a security  
 223 freeze placed in accordance with this section by releasing  
 224 information subject to a security freeze without proper

225 authorization, the consumer reporting agency shall, within 5  
 226 business days after discovering or being notified of the release  
 227 of information, notify the representative of the protected  
 228 consumer in writing. The notice shall state the specific  
 229 information released, and provide the name, address, and other  
 230 contact information of the recipient of the information.

231 (13) A consumer reporting agency that willfully fails to  
 232 comply with any requirement imposed under this section with  
 233 respect to any representative or protected consumer is subject  
 234 to an administrative fine in the amount of \$500 issued pursuant  
 235 to the administrative procedures established in chapter 120 by  
 236 the Department of Agriculture and Consumer Services.

237 (14) A person who is aggrieved by a violation of this  
 238 section may bring a civil action as follows:

239 (a) A person who obtains a record under false pretenses,  
 240 or who knowingly obtains a record without a permissible purpose,  
 241 is liable to the representative and protected consumer for  
 242 actual damages sustained by the protected consumer or \$1,000,  
 243 whichever is greater.

244 (b) A person who obtains a record from a consumer  
 245 reporting agency under false pretenses, or who knowingly obtains  
 246 a record without a permissible purpose, is liable to the  
 247 consumer reporting agency for actual damages sustained by the  
 248 consumer reporting agency or \$1,000, whichever is greater.

249 (15) A written disclosure by a consumer reporting agency,  
 250 pursuant to 15 U.S.C. s. 1681g, to a representative and  
 251 protected consumer residing in this state shall include a  
 252 written summary of all rights that the representative and

253 protected consumer have under this section, and, in the case of  
 254 a consumer reporting agency which compiles and maintains records  
 255 on a nationwide basis, a toll-free telephone number that the  
 256 representative can use to communicate with the consumer  
 257 reporting agency. The information provided in paragraph (b) of  
 258 the written summary of rights must be in at least 12-point  
 259 boldface type. The written summary of rights required under this  
 260 section is sufficient if it is substantially in the following  
 261 form:

262 (a) If you are the custodial parent or legal guardian of a  
 263 minor younger than 16 years of age or a guardian or advocate of  
 264 an incapacitated, disabled, or protected person under chapter  
 265 39, chapter 393, chapter 744, or chapter 914, Florida Statutes,  
 266 you have a right to place a security freeze on the consumer  
 267 report of the person you are legally authorized to care for. If  
 268 no consumer report exists, you have a right to request a record  
 269 to be created and a security freeze to be placed on the record.  
 270 A record with a security freeze is intended to prevent the  
 271 opening of credit accounts until the security freeze is removed.

272 (b) YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO  
 273 CONTROL ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN THE  
 274 CONSUMER RECORD MAY DELAY, INTERFERE WITH, OR PROHIBIT THE  
 275 TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION  
 276 REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE, GOVERNMENT  
 277 SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT, INVESTMENT,  
 278 LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL SIGNATURE, INTERNET  
 279 CREDIT CARD TRANSACTION, OR OTHER SERVICES, INCLUDING AN  
 280 EXTENSION OF CREDIT AT POINT OF SALE.



281 (c) To remove the security freeze on the protected  
 282 consumer's record or authorize the release of the record, you  
 283 must contact the consumer reporting agency and provide all of  
 284 the following:

285 1. The personal identification required by the consumer  
 286 reporting agency.

287 2. Sufficient proof of authority over the protected  
 288 consumer.

289 3. Payment of a fee authorized by this section.

290 (d) A consumer reporting agency must, within 30 days after  
 291 receiving the above information, authorize the release of the  
 292 record or, within 3 business days after receiving the above  
 293 information, authorize the release of the consumer report.

294 (e) A security freeze does not apply to a person or  
 295 entity, or its affiliates, or collection agencies acting on  
 296 behalf of the person or entity, with which the protected  
 297 consumer has an existing account, that requests information in  
 298 the protected consumer's consumer report for the purposes of  
 299 reviewing or collecting the account. Reviewing the account  
 300 includes activities related to account maintenance, monitoring,  
 301 credit line increases, and account upgrades and enhancements.

302 (f) You have the right to bring a civil action as  
 303 authorized by s. 501.0051, Florida Statutes, which governs the  
 304 security of protected consumer information.

305 Section 2. This act shall take effect September 1, 2013.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 579 Natural Gas Motor Fuel  
**SPONSOR(S):** Energy & Utilities Subcommittee; Ray and others  
**TIED BILLS:** None. **IDEN./SIM. BILLS:** CS/SB 560

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee	13 Y, 0 N, As CS	Whittier	Collins
2) Finance & Tax Subcommittee	15 Y, 0 N	Flieger	Langston
3) Appropriations Committee	23 Y, 0 N	White	Leznoff
4) Regulatory Affairs Committee		Whittier <i>Syu</i>	Hamon <i>K.W.H</i>

**SUMMARY ANALYSIS**

The bill creates Part V of Chapter 206, F.S., consisting of ss. 206.9951-206.998, F.S., and entitles it "Natural Gas Fuel." It repeals the annual decal fee program for motor vehicles powered by alternative fuels effective January 1, 2014, and establishes a fuel tax structure for natural gas used as a motor fuel similar to that for diesel fuel beginning January 1, 2019, thereby exempting natural gas fuel from fuel taxes for five years. The bill also exempts natural gas fuel from state sales and use taxes and expands the definition of "energy efficiency improvement" to include "installation of systems for natural gas fuel" under uses authorized by the Local Government Infrastructure Surtax.

The bill may result in increased savings for drivers utilizing vehicles powered by natural gas fuel, an increase in conversions of vehicle fleets from being powered by traditional fuels to natural gas fuel, and an increase in natural gas refueling infrastructure across the state.

On March 8, 2013, the Revenue Estimating Conference estimated that in FY 2013-14, there will be an insignificant negative impact on revenues to the General Revenue Fund, a (\$0.3) million impact to state trust funds, and no impact to local government. However, in FY 2018-19 net revenue impacts will become more positive on a permanent basis as the new fuel tax system created by the bill takes effect. Consequently, the recurring revenue impacts, expressed in FY 2013-14 dollars reflecting the longer-run perspective, will be \$0.1 million to the General Revenue Fund, (\$0.1) million to state trust funds, and \$0.4 million to local government.

The effective date of this bill is January 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **Natural Gas**

During the past several years, exploration has uncovered a supply of natural gas in the United States which has resulted in a reduction in the price of natural gas and an increased interest in natural gas powered vehicles and fueling stations. Similar to the dilemma facing electric vehicles, there is much discussion surrounding whether to first increase and/or convert fleets to be powered by natural gas in Florida or to begin with expanding the natural gas fueling infrastructure statewide. Currently, there are 32 natural gas fueling stations in Florida.<sup>1</sup>

When compared using equivalent units of measure, natural gas is less expensive than gasoline or diesel fuel. The U.S. Department of Energy reports that in the fall of 2012, the national average price for gasoline was \$3.82, the price for diesel was \$4.13, and for a gasoline gallon equivalent of compressed natural gas ("CNG") was \$2.12.<sup>2</sup> Although initial savings in fuel costs may be offset by the cost of a natural gas vehicle over a gasoline or diesel-powered vehicle, cost savings may be experienced after a few years.

In a study<sup>3</sup> prepared for the Florida Natural Gas Vehicle Coalition ("FNGVC"), the following was noted:

The incremental cost of a standard passenger vehicle powered by CNG, compared to a standard passenger vehicle powered by gasoline, ranges from \$7,000 to \$18,500. Assuming each passenger vehicle consumes 531 gallons per year, and applying a gas-CNG price difference of \$1.74, the payback period ranges from 7.6 years to 20 years. In contrast, the incremental cost of a truck powered by CNG over a diesel-powered truck is \$76,100. Assuming each vehicle consumes 11,706 gallons per year and assuming a price difference of \$1.91, the payback period for conversion of a diesel-powered truck to a CNG-powered truck is only 3.4 years. Further, reduced engine wear and extended service intervals also reduce maintenance costs for CNG-powered vehicles.<sup>4</sup>

Natural gas is touted as the cleanest of the fossil fuels. The Natural Gas Supply Association points out that, "Pollutants emitted in the United States, particularly from the combustion of fossil fuels, have led to the development of many pressing environmental problems. Natural gas, emitting fewer harmful chemicals into the atmosphere than other fossil fuels, can help to mitigate some of these environmental issues." These concerns include:

- Greenhouse Gas Emissions;
- Smog, Air Quality and Acid Rain;
- Industrial and Electric Generation Emissions; and
- Pollution from the Transportation Sector.<sup>5</sup>

<sup>1</sup> Correspondence from the Florida Natural Gas Association, March 1, 2013.

<sup>2</sup> *Clean Cities Alternative Fuel Price Report*, U.S. Department of Energy, October 2012, p. 3.

<sup>3</sup> *Economic Impact of Incentives to Facilitate Compressed Natural Gas Vehicles in Florida*, by Fishkind & Associates, Inc., August 1, 2012.

<sup>4</sup> *Id.*, pp. 17-18.

<sup>5</sup> Naturalgas.org website: <http://www.naturalgas.org/environment/naturalgas.asp>.

According to the FNGVC, the following are benefits associated with the use of natural gas for fleet trucks:

- Natural gas vehicles can save a company 30%-50% of its fuel costs.
- Central fuel and maintenance make fleets highly conducive to CNG fueling infrastructure.
- While it is true that Florida currently has relatively few natural gas fueling stations in place, several companies offer no-cost or low-cost options for construction and maintenance of such infrastructure.
- Maintenance on a natural gas vehicle is no more problematic and often easier than traditional diesel trucks.
- The cost of converting to CNG is decreasing. In addition, such costs are offset by savings in direct fuel costs and possible financial incentives for the purchase of natural gas vehicles.<sup>6</sup>

The FNGVC study recommends providing incentives to utilize CNG-powered truck fleets, thereby creating a demand for the re-fueling stations and “producing significant stimulation of Florida’s economy.”

### ***State Gasoline, Diesel, and Alternative Fuel Taxes***

#### *Motor Fuel*

Section 206.01(9), F.S., defines “motor fuel” or “fuel” to mean “all gasoline products or any product blended with gasoline or any fuel placed in the storage supply tank of a gasoline-powered motor vehicle.” Section 206.41(1), F.S., provides for the following taxes on motor fuel:

- An excise or license tax of 2 cents per net gallon of motor fuel, designated as the “constitutional fuel tax.”
- An additional 1 cent per net gallon, designated as the “county fuel tax.”
- An additional 1 cent per net gallon, designated as the “municipal fuel tax.”
- An additional tax of 1 cent per net gallon may be imposed by each county, designated as the “ninth-cent fuel tax.”
- An additional tax of between 1 and 11 cents per net gallon may be imposed by each county, designated as the “local option fuel tax.”
- An additional tax per net gallon of motor fuel is imposed by each county, designated as the State Comprehensive Enhanced Transportation System Tax (“SCETS”), at a rate determined as specified in paragraph (f) of the subsection.
- An additional tax per net gallon is imposed “on the privilege of selling motor fuel,” designated as the “fuel sales tax,” at a rate determined as specified in paragraph (g) of the subsection.

The SCETS tax rate on motor fuel for 2013 is 5.9 cents and the fuel sales tax rate on motor fuel for 2013 is 12.9 cents.<sup>7</sup>

#### *Diesel Fuel*

Section 206.86(1), F.S., defines “diesel fuel” to mean “all petroleum distillates commonly known as diesel #2, biodiesel, or any other product blended with diesel or any product placed into the storage supply tank of a diesel-powered motor vehicle.” Section 206.87(1), F.S., provides for the following taxes on diesel fuel:

- An excise tax of 4 cents upon each net gallon of diesel fuel, except for alternative fuels which are subject to the fee imposed by s. 206.877, F.S.

<sup>6</sup> FNGVC website: <http://www.fuelforjobs.com/wp-content/uploads/2012/03/Executive-Summary-FINAL1.pdf>, p. 6.

<sup>7</sup> Florida Department of Revenue website: [http://dor.myflorida.com/dor/tips/pdf/12b05-02\\_chart.pdf](http://dor.myflorida.com/dor/tips/pdf/12b05-02_chart.pdf), 2013 Florida Fuel Tax, Collection Allowance, Refund, and Pollutants Tax Rates, p. 2.

- An additional 1 cent per net gallon by each county, designated as the “ninth-cent fuel tax.”
- An additional 6 cents per net gallon by each county, designated as the “local option fuel tax.”
- An additional tax per net gallon by each county, designated as the State Comprehensive Enhanced Transportation System Tax (SCETS), at a rate determined as specified in paragraph (d) of the subsection.
- An additional tax per net gallon “on the privilege of selling diesel fuel,” designated as the “fuel sales tax,” at a rate determined as specified in paragraph (e) of the subsection.

The SCETS Tax rate on diesel for 2013 is 7.1 cents and the fuel sales tax rate on diesel for 2013 is 12.9 cents.<sup>8</sup>

Section 212.0501(5), F.S., provides that diesel fuel upon which the fuel taxes pursuant to ch. 206, F.S., have been paid is exempt from the tax on sales, use, and other transactions imposed by ch. 212, F.S.

### *Alternative Fuel*

Section 206.86(4), F.S., defines “alternative fuel” to mean “any liquefied petroleum gas product or compressed natural gas product or combination thereof used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance. This term includes, but is not limited to, all forms of fuel commonly or commercially known or sold as natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas or compressed natural gas.” Section 206.86(5), F.S., defines “natural gasoline” as “a liquid hydrocarbon that is produced by natural gas and must be blended with other liquid petroleum products to produce motor fuel.”

Section 206.877(1)(a), F.S., requires owners or operators of motor vehicles licensed in this state which are powered by alternative fuels to pay, in lieu of the excise tax on diesel fuel (s. 206.87(1)(a)-(d), F.S.), an annual decal fee on each such motor vehicle in accordance with the rate schedule specified in that paragraph.

The Department of Revenue (“DOR”) issues an annual decal to be attached to the upper right corner of the front windshield on the motor vehicle for which the decal is issued, and it is unlawful to operate a vehicle that is required to have this decal unless the vehicle is titled outside the state. Each sale of alternative fuel placed in a motor vehicle displaying a decal must be documented on an invoice that includes the decal number, the motor vehicle license number, and the number of gallons placed into the motor vehicle. Any person who puts or causes to be put liquefied petroleum gas or compressed natural gas into a motor vehicle required to have a decal is guilty of a first degree misdemeanor unless the vehicle has the required attached decal. A state or local governmental agency is not required to obtain a decal and pay the annual decal fee for a motor vehicle powered by alternative fuel which it operates.<sup>9</sup> The taxes imposed on diesel fuel under s. 206.87, F.S., apply to purchases of alternative fuels by operators of vehicles licensed in other states and other vehicles that do not have the proper decal.

The sale of alternative fuel, as defined in s. 206.86(4), F.S., is also subject to sales and use tax imposed under ch. 212, F.S.<sup>10</sup>

Section 206.89, F.S., provides that a person may not act as a retailer of alternative fuel unless he or she holds a valid retailer of alternative fuel license issued by DOR, and any person acting as such who does not hold a license must pay a penalty of 25% of the tax assessed on the total purchases. A filing fee of \$5 and a bond is required at the time of filing an application for a license. Every person who operates as a retailer of alternative fuel, except those licensed under ch. 206, F.S., including a state

<sup>8</sup> Florida Department of Revenue website: [http://dor.myflorida.com/dor/tips/pdf/12b05-02\\_chart.pdf](http://dor.myflorida.com/dor/tips/pdf/12b05-02_chart.pdf), 2013 Florida Fuel Tax, Collection Allowance, Refund, and Pollutants Tax Rates, p. 2.

<sup>9</sup> Section 206.877, F.S.

<sup>10</sup> Rule 12A-1.059, F.A.C.

agency, federal agency, municipality, county, or special district, must report monthly to DOR and pay tax on all fuel purchases.

The revenues from the state alternative fuel fees imposed by s. 206.877, F.S., are deposited into the State Alternative Fuel User Fee Clearing Trust Fund. After deducting specified service charges, the proceeds from state alternative fuel fees are distributed as follows:

- One-half of the proceeds shall be transferred to the State Transportation Trust Fund.
- 50% of the remainder shall be transferred to the State Board of Administration for distribution in accordance with the Florida Constitution.
- 25% of the remainder shall be transferred to the Revenue Sharing Trust Fund for Municipalities.
- 25% of the remainder shall be distributed in accordance with s. 206.60(1), F.S. (to the counties for specified public transportation purposes).<sup>11</sup>

The revenues from the local alternative fuel fees imposed in lieu of s. 206.87(1)(b) or (c), F.S., are to be deposited into the Local Alternative Fuel User Fee Clearing Trust Fund. After deducting specified service charges, the proceeds are returned monthly to the appropriate county.<sup>12</sup>

### ***Local Discretionary Sales Surtaxes***

Local discretionary sales surtaxes, also referred to as local option sales taxes, are authorized under s. 212.055, F.S., and provide potential revenue sources for county and municipal governments and school districts. The local discretionary sales surtaxes apply to all transactions that are subject to the state tax imposed on sales, use, services, rentals, admissions, and other authorized transactions, pursuant to ch. 212, F.S., and communications services as defined for purposes of ch. 202, F.S. Discretionary sales surtaxes must be collected when the transaction occurs in, or delivery is into, a county that imposes the surtax, and the sale is subject to the state's sales and use tax.<sup>13</sup> The surtax applies to the first \$5,000 of any single taxable item when sold to the same purchaser at the same time.<sup>14</sup>

There are eight different types of local discretionary sales surtaxes currently authorized in law:

- Charter County and Regional Transportation System Surtax;
- Local Government Infrastructure Surtax;
- Small County Surtax;
- Indigent Care and Trauma Center Surtax;
- County Public Hospital Surtax;
- School Capital Outlay Surtax;
- Voter-Approved Indigent Care Surtax; and
- Emergency Fire Rescue Services and Facilities Surtax.

The local discretionary sales surtax rate varies from county to county, depending on the particular levies authorized in that jurisdiction.

### ***Local Government Infrastructure Surtax***

Section 212.055(2)(a)1., F.S., provides that the Local Government Infrastructure Surtax shall be levied at the rate of 0.5 or 1 percent pursuant to an ordinance enacted by a majority vote of the members of

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<sup>11</sup> Section 206.879(1), F.S.

<sup>12</sup> Section 206.879(2), F.S.

<sup>13</sup> 2012 Florida Tax Handbook, p. 207.

<sup>14</sup> Section 212.054(2)(b)1., F.S.

the county's governing body and approved by voters in a countywide referendum.<sup>15</sup> If the proposal to levy the surtax is approved by a majority of the electors, the levy shall take effect. The levy may only be extended by voter approval in a countywide referendum. There is no state-mandated limit on the length of levy for surtax ordinances enacted after July 1, 1993.<sup>16</sup> All counties are eligible to levy this surtax.<sup>17</sup>

Pursuant to s. 212.055(2)(d), F.S., school districts, counties,<sup>18</sup> and municipalities may expend the proceeds of the Local Government Infrastructure Surtax and any accrued interest for the following purposes:

- To finance, plan, and construct infrastructure;
- To acquire land for public recreation, conservation, or protection of natural resources;
- To provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing such use is approved by referendum; or
- To finance the closure of county-owned or municipally-owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection.

For purposes of the Local Government Infrastructure Surtax, s. 212.055(2)(d)2., F.S., defines "energy efficiency improvement" as any energy conservation and efficiency improvement that reduces consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy on the property, including, but not limited to:

- Air sealing;
- Installation of insulation;
- Installation of energy-efficient heating, cooling, or ventilation systems;
- Installation of solar panels;
- Building modifications to increase the use of daylight or shade;
- Replacement of windows;
- Installation of energy controls or energy recovery systems;
- Installation of electric vehicle charging equipment; and
- Installation of efficient lighting equipment.

A local government choosing to expend funds under this provision is required to enact or amend its ordinance pursuant to s. 125.66, F.S., and have the ordinance approved by referendum in a subsequent election.

## **Effects of Proposed Changes**

### ***Natural Gas Fuel Taxes***

Chapter 206, F.S., addresses "Motor and Other Fuel Taxes." The bill creates Part V of Chapter 206, F.S., consisting of ss. 206.9951-206.998, and entitles it "Natural Gas Fuel." It repeals the annual decal fee program for motor vehicles powered by alternative fuels and establishes a fuel tax structure for natural gas used as a motor fuel similar to that for diesel fuel beginning January 1, 2019.

<sup>15</sup> In lieu of action by the county's governing body, municipalities representing a majority of the county's population may initiate the surtax through the adoption of uniform resolutions calling for a countywide referendum on the issue.

<sup>16</sup> If the surtax was levied pursuant to a referendum held before July 1, 1993, the surtax may not be levied beyond the time established in the ordinance. If the pre-July 1, 1993, ordinance did not limit the period of the levy, the surtax may not be levied for more than 15 years.

<sup>17</sup> The Local Government Infrastructure Surtax is one of four surtaxes subject to a combined rate limitation. A county cannot levy this surtax and the Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax in excess of a combined rate of 1 percent.

<sup>18</sup> Pursuant to s. 212.055(2)(d), F.S., proceeds of the surtax may also be expended within another county in the case of a negotiated joint county agreement.



Section 206.9951, F.S., provides the following definitions:

- "Motor fuel equivalent gallon" means the volume of natural gas fuel it takes to equal the energy content of 1 gallon of motor fuel.
- "Natural gas fuel" means any liquefied petroleum gas product, compressed natural gas product, or combination thereof used in a motor vehicle as defined in s. 206.01(23), F.S. This term includes, but is not limited to, all forms of fuel commonly or commercially known or sold as natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas, compressed natural gas, or liquefied natural gas.
- "Natural gas fuel retailer" means any person who sells natural gas fuel for use in a motor vehicle as defined in s. 206.01(23), F.S.
- "Natural gasoline" is a liquid hydrocarbon that is produced by natural gas and must be blended with other liquid petroleum products to produce motor fuel.
- "Person" means a natural person, corporation, copartnership, firm, company, agency, or association; a state agency; a federal agency; or a political subdivision of the state

The bill requires any person selling natural gas fuel at retail in Florida to obtain a natural gas fuel retailer license (license) from the Department of Revenue (DOR or department). Until December 31, 2018, any person who acts as a natural gas retailer and does not hold a valid license must pay a penalty of \$200 for each month of operation without a license. Beginning January 1, 2019, a penalty of 25 percent of the tax assessed on total purchases is imposed on any person who acts as a natural gas fuel retailer and does not have a valid license.<sup>19</sup> In order to apply for a license from DOR, the applicant must file an application and a bond with the department and pay a license fee of \$5 for deposit into the General Revenue Fund.<sup>20</sup>

The bill replaces the annual decal and fee originally required in s. 206.877, F.S., with a tax on each motor fuel equivalent gallon of natural gas fuel. The bill provides the motor fuel equivalent gallon rates for compressed natural gas, liquefied natural gas, and liquefied petroleum gas. The person liable for payment of the taxes is the person selling the fuel to the end user for use in the fuel supply tank of a motor vehicle as defined in s. 206.01(23), F.S.<sup>21</sup>

Section 206.9955(2), F.S., provides for the following taxes on natural gas fuel, effective January 1, 2019:

- An excise tax of 4 cents upon each motor fuel equivalent gallon of natural gas fuel.
- An additional tax of 1 cent upon each motor fuel equivalent gallon of natural gas fuel, which is designated as the "ninth-cent fuel tax."
- An additional tax of 6 cents on each motor fuel equivalent gallon of natural gas fuel by each county, which is designated as the "local option fuel tax."
- An additional tax on each motor fuel equivalent gallon of natural gas fuel, which is designated as the "State Comprehensive Enhanced Transportation System Tax," at a rate determined pursuant to paragraph (d) of the subsection.<sup>22</sup>

<sup>19</sup> Section 206.9952(3), F.S.

<sup>20</sup> Section 206.9952, F.S.

<sup>21</sup> See ss. 206.9955 and 206.996, F.S., for detailed information on specific calculations.

<sup>22</sup> Each calendar year, the department shall determine the tax rate applicable to the sale of natural gas fuel for the following 12-month period beginning January 1, rounded to the nearest tenth of a cent, by adjusting the initially established tax rate of 7.1 cents per gallon by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30.

- An additional tax is imposed on each motor fuel equivalent gallon of natural gas fuel “for the privilege of selling natural gas fuel,” designated as the “fuel sales tax,” at a rate determined as specified in paragraph (e) of the section.

The bill provides that for the purpose of determining the amount of taxes, beginning with February 2019, each natural gas fuel retailer shall file, no later than the 20<sup>th</sup> of each month, monthly reports with the DOR providing information on inventory, purchases, nontaxable disposals, and taxable sales in gallons of natural gas fuel for the preceding month. The natural gas fuel retailer is allowed to deduct 0.67 percent of the amount of taxes owed to “compensate it for services rendered and expenses incurred in complying with the requirements...”<sup>23</sup> Upon the filing of the monthly report, the natural gas fuel retailer shall pay the DOR the full amount of fuel taxes for the preceding month, less the amount allowed for services and expenses.

The bill provides exemptions from the tax imposed by chapter 206 when used or purchased for the following:<sup>24</sup>

- Exclusive use by the United States or its departments or agencies. Exclusive use by the United States or its departments and agencies means the consumption by the United States or its departments or agencies of natural gas fuel in a motor vehicle as defined in s. 206.01(23).
- Use for agricultural purposes as defined in s. 206.41(4)(c).
- Uses as provided in s. 206.874(3) (which addresses dyed diesel fuel).
- Used to propel motor vehicles operated by state and local government agencies.
- Individual use resulting from residential refueling devices located at a person's primary residence.
- Purchases of natural gas fuel between licensed natural gas fuel retailers.<sup>25</sup>

Section 206.997, F.S., directs that, beginning with the calendar year 2019 and thereafter, revenues from the natural gas fuel tax be deposited into the State Alternative Fuel User Fee Clearing Trust Fund to be distributed as follows:

- One-half of the proceeds shall be transferred to the State Transportation Trust Fund.
- 50% of the remainder shall be transferred to the State Board of Administration for distribution in accordance with the Florida Constitution.
- 25% of the remainder shall be transferred to the Revenue Sharing Trust Fund for Municipalities.
- 25% of the remainder shall be distributed in accordance with s. 206.60(1), F.S. (to the counties for specified public transportation purposes).

The bill repeals the Local Alternative Fuel User Fee Clearing Trust Fund. The bill specifies that existing provisions within part I and part II of chapter 206 shall be applicable to the taxes levied, imposed, and collected unless the provision conflicts with the new part.

### **Local Government Infrastructure Surtax**

As noted in the *Present Situation* section, “energy efficiency improvement” is defined within the Local Government Infrastructure Surtax subsection of s. 212.055, F.S., as any energy conservation and efficiency improvement that reduces consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy on the property, including, but not limited to:

<sup>23</sup> Section 206.996(1), F.S.

<sup>24</sup> Section 206.9965, F.S.

<sup>25</sup> A natural gas fuel retailer that sells tax-paid natural gas fuel to another natural gas fuel retailer may take a credit on its monthly return or may file a claim for refund with the Chief Financial Officer pursuant to s. 215.26, F.S. All sales of natural gas fuel between natural gas fuel retailers must be documented on invoices or other evidence of the sale of such fuel and the seller shall retain a copy of the purchaser's natural gas fuel retailer license.

- Air sealing;
- Installation of insulation;
- Installation of energy-efficient heating, cooling, or ventilation systems;
- Installation of solar panels;
- Building modifications to increase the use of daylight or shade;
- Replacement of windows;
- Installation of energy controls or energy recovery systems;
- Installation of electric vehicle charging equipment; and
- Installation of efficient lighting equipment.

The bill adds "installation of systems for natural gas fuel as defined in s. 206.9951" to the definition of "energy efficiency improvement." This would allow a county to use surtax revenues as loans, grants, or rebates to private property owners who install natural gas fueling systems if a local government ordinance authorizing such use is approved by referendum.<sup>26</sup>

### ***Sales and Use Tax***

The bill exempts natural gas fuel from the state sales and use tax when the fuel is placed into the fuel supply system of a motor vehicle.

#### **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 206.86, F.S.; deletes definitions for the terms "alternative fuel" and "natural gasoline."

**Section 2.** Amends s. 206.87, F.S.; conforms a cross-reference.

**Section 3.** Repeals s. 206.877, F.S., relating to the annual decal fee program for motor vehicles powered by alternative fuels.

**Section 4.** Repeals s. 206.89, F.S., relating to the requirements for alternative fuel retailer licenses.

**Section 5.** Amends s. 206.91, F.S.; makes grammatical and technical changes.

**Section 6.** Provides a directive to the Division of Law Revision and Information to create part V of chapter 206, Florida Statutes.

**Section 7.** Creates s. 206.9951, F.S.; provides definitions.

**Section 8.** Creates s. 206.9952, F.S.; establishes requirements for natural gas fuel retailer licenses; provides penalties for certain licensure violations.

**Section 9.** Creates s. 206.9955, F.S.; provides for the levy of the natural gas fuel tax; provides calculations for a motor fuel equivalent gallon; authorizes the Department of Revenue to adopt rules.

**Section 10.** Creates s. 206.996, F.S.; establishes requirements for monthly reports of natural gas fuel retailers; provides that reports are made under the penalties of perjury; allows natural gas fuel retailers to seek a deduction of the tax levied under specified conditions.

**Section 11.** Creates s. 206.9965, F.S.; provides exemptions and refunds from the natural gas fuel tax.

**Section 12.** Transfers and renumbers s. 206.879, F.S., as s. 206.997, F.S., and amends to revise provisions relating to the State Alternative Fuel User Fee Clearing Trust Fund.

**Section 13.** Terminates the Local Alternative Fuel User Fee Clearing Trust Fund within the Department of Revenue; prescribes procedures for the termination of the trust fund.

**Section 14.** Creates s. 206.998, F.S.; provides for the applicability of specified sections of parts I and II of ch. 206, F.S.

**Section 15.** Amends s. 212.055, F.S.; expands the use of the local government infrastructure surtax to include the installation of systems for natural gas fuel.

**Section 16.** Amends s. 212.08, F.S.; provides an exemption from taxes for natural gas fuel under certain circumstances.

**Section 17.** Provides an effective date of January 1, 2014.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

On March 8, 2013, the Revenue Estimating Conference estimated that in FY 2013-14, there will be an insignificant negative impact on revenues to the General Revenue Fund and a (\$0.3) million impact to state trust funds. However, in FY 2018-19 net revenue impacts will become more positive on a permanent basis as the new fuel tax system created by the bill takes effect. Consequently, the recurring revenue impacts, expressed in FY 2013-14 dollars reflecting the longer-run perspective, will be \$0.1 million to the General Revenue Fund and (\$0.1) million state trust funds.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

On March 8, 2013, the Revenue Estimating Conference estimated that in FY 2013-14, there will be no impact to local government and slightly negative impacts in the subsequent four years of (\$0.1) million annually. However, in FY 2018-19 net revenue impacts will become more positive on a permanent basis as the new fuel tax system created by the bill takes effect. Consequently, the recurring revenue impacts, expressed in FY 2013-14 dollars reflecting the longer-run perspective, will be \$0.4 million to local government.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may result in increased savings for drivers utilizing vehicles powered by natural gas fuel, an increase in conversions of vehicle fleets from being powered by traditional fuels to natural gas fuel, and an increase in natural gas refueling infrastructure across the state.

### D. FISCAL COMMENTS:

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

The DOR is authorized to adopt rules and publish forms to administer the fuel sales tax in s. 206.9955, F.S.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 5, 2013, the Energy & Utilities Subcommittee adopted a Proposed Committee Substitute (PCS) for the bill and passed the bill out as a Committee Substitute. One amendment to the PCS was adopted.

The amended PCS made the following changes to the filed version of the bill:

- Removed Section 4 from the bill. Section 4 created the Natural Gas Fuel Vehicle Investment Program, which directed that certain taxes be deposited into the General Inspection Trust Fund to be used to provide rebates for the incremental cost or purchase of natural gas fuel vehicles.
- Provided that natural gas fuel is exempt from the sales and use tax imposed in chapter 212, F.S.
- Provided for a 5-year exemption of natural gas fuel taxes beginning on January 1, 2014, and ending on December 31, 2018.
- Provided for a \$200 penalty for every month that a person who acts as a natural gas retailer without a valid license is in operation during the five-year tax exemption period.
- Adjusted the State Comprehensive Enhanced Transportation System Tax from being initially established at a tax rate of 6.9 cents per gallon to 7.1 cents per gallon.
- Revised the definitions of "natural gas fuel," "natural gas fuel retailer," and "person" in part V of chapter 206, F.S.

The staff analysis has been updated to reflect the committee substitute.

1                                   A bill to be entitled  
2       An act relating to natural gas motor fuel; amending s.  
3       206.86, F.S.; deleting definitions for the terms  
4       "alternative fuel" and "natural gasoline"; amending s.  
5       206.87, F.S.; conforming a cross-reference; repealing  
6       s. 206.877, F.S., relating to the annual decal fee  
7       program for motor vehicles powered by alternative  
8       fuels; repealing s. 206.89, F.S., relating to the  
9       requirements for alternative fuel retailer licenses;  
10      amending s. 206.91, F.S.; making grammatical and  
11      technical changes; providing a directive to the  
12      Division of Law Revision and Information; creating s.  
13      206.9951, F.S.; providing definitions; creating s.  
14      206.9952, F.S.; establishing requirements for natural  
15      gas fuel retailer licenses; providing penalties for  
16      certain licensure violations; creating s. 206.9955,  
17      F.S.; providing calculations for a motor fuel  
18      equivalent gallon; providing for the levy of the  
19      natural gas fuel tax; authorizing the Department of  
20      Revenue to adopt rules; creating s. 206.996, F.S.;  
21      establishing requirements for monthly reports of  
22      natural gas fuel retailers; providing that reports are  
23      made under the penalties of perjury; allowing natural  
24      gas fuel retailers to seek a deduction of the tax  
25      levied under specified conditions; creating s.  
26      206.9965, F.S.; providing exemptions and refunds from  
27      the natural gas fuel tax; transferring, renumbering,  
28      and amending s. 206.879, F.S.; revising provisions

29 relating to the State Alternative Fuel User Fee  
 30 Clearing Trust Fund; terminating the Local Alternative  
 31 Fuel User Fee Clearing Trust Fund within the  
 32 Department of Revenue; prescribing procedures for the  
 33 termination of the trust fund; creating s. 206.998,  
 34 F.S.; providing for the applicability of specified  
 35 sections of parts I and II of ch. 206, F.S.; amending  
 36 s. 212.055, F.S.; expanding the use of the local  
 37 government infrastructure surtax to include the  
 38 installation of systems for natural gas fuel; amending  
 39 s. 212.08, F.S.; providing an exemption from taxes for  
 40 natural gas fuel under certain circumstances;  
 41 providing an effective date.

42

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

44

45 Section 1. Section 206.86, Florida Statutes, is amended to  
 46 read:

47 206.86 Definitions.—As used in this part:

48 (1) "Diesel fuel" means all petroleum distillates commonly  
 49 known as diesel #2, biodiesel, or any other product blended with  
 50 diesel or any product placed into the storage supply tank of a  
 51 diesel-powered motor vehicle.

52 (2) "Taxable diesel fuel" or "fuel" means any diesel fuel  
 53 not held in bulk storage at a terminal ~~and~~ which has not been  
 54 dyed for exempt use in accordance with Internal Revenue Code  
 55 requirements.

56 (3) "User" includes any person who uses diesel fuels

57 | within this state for the propulsion of a motor vehicle on the  
 58 | public highways of this state, even though the motor is also  
 59 | used for a purpose other than the propulsion of the vehicle.

60 | ~~(4) "Alternative fuel" means any liquefied petroleum gas~~  
 61 | ~~product or compressed natural gas product or combination thereof~~  
 62 | ~~used in an internal combustion engine or motor to propel any~~  
 63 | ~~form of vehicle, machine, or mechanical contrivance. This term~~  
 64 | ~~includes, but is not limited to, all forms of fuel commonly or~~  
 65 | ~~commercially known or sold as natural gasoline, butane gas,~~  
 66 | ~~propane gas, or any other form of liquefied petroleum gas or~~  
 67 | ~~compressed natural gas.~~

68 | ~~(5) "Natural gasoline" is a liquid hydrocarbon that is~~  
 69 | ~~produced by natural gas and must be blended with other liquid~~  
 70 | ~~petroleum products to produce motor fuel.~~

71 | (4)~~(6)~~ "Removal" means any physical transfer of diesel  
 72 | fuel and any use of diesel fuel other than as a material in the  
 73 | production of diesel fuel.

74 | (5)~~(7)~~ "Blender" means any person who ~~that~~ produces  
 75 | blended diesel fuel outside the bulk transfer/terminal system.

76 | (6)~~(8)~~ "Colorless marker" means material that is not  
 77 | perceptible to the senses until the diesel fuel into which it is  
 78 | introduced is subjected to a scientific test.

79 | (7)~~(9)~~ "Dyed diesel fuel" means diesel fuel that is dyed  
 80 | in accordance with United States Environmental Protection Agency  
 81 | or Internal Revenue Service requirements for high sulfur diesel  
 82 | fuel or low sulfur diesel fuel.

83 | (8)~~(10)~~ "Ultimate vendor" means a licensee that sells  
 84 | undyed diesel fuel to the United States or its departments or



85 agencies in bulk lots of not less than 500 gallons in each  
 86 delivery or to the user of the diesel fuel for use on a farm for  
 87 farming purposes.

88 (9)~~(11)~~ "Local government user of diesel fuel" means any  
 89 county, municipality, or school district licensed by the  
 90 department to use untaxed diesel fuel in motor vehicles.

91 (10)~~(12)~~ "Mass transit system" means any licensed local  
 92 transportation company providing local bus service that is open  
 93 to the public and that travels regular routes.

94 (11)~~(13)~~ "Diesel fuel registrant" means anyone required by  
 95 this chapter to be licensed to remit diesel fuel taxes,  
 96 including, but not limited to, terminal suppliers, importers,  
 97 local government users of diesel fuel, and mass transit systems.

98 (12)~~(14)~~ "Biodiesel" means any product made from  
 99 nonpetroleum-based oils or fats which is suitable for use in  
 100 diesel-powered engines. Biodiesel is also referred to as alkyl  
 101 esters.

102 (13)~~(15)~~ "Biodiesel manufacturer" means those industrial  
 103 plants, regardless of capacity, where organic products are used  
 104 in the production of biodiesel. This includes businesses that  
 105 process or blend organic products that are marketed as  
 106 biodiesel.

107 Section 2. Paragraph (a) of subsection (1) of section  
 108 206.87, Florida Statutes, is amended to read:

109 206.87 Levy of tax.—

110 (1) (a) An excise tax of 4 cents per gallon is ~~hereby~~  
 111 imposed upon each net gallon of diesel fuel subject to the tax  
 112 under subsection (2), ~~except alternative fuels which are subject~~

113 | ~~to the fee imposed by s. 206.877.~~

114 |       Section 3. Section 206.877, Florida Statutes, is repealed.

115 |       Section 4. Section 206.89, Florida Statutes, is repealed.

116 |       Section 5. Subsection (1) of section 206.91, Florida  
117 | Statutes, is amended to read:

118 |           206.91 Tax reports; computation and payment of tax.—

119 |           (1) For the purpose of determining the amount of taxes  
120 | imposed by s. 206.87, each diesel fuel registrant shall, not  
121 | later than the 20th day of each calendar month, mail to the  
122 | department, on forms prescribed by the department, monthly  
123 | reports that provide ~~which shall show such~~ information on  
124 | inventories, purchases, nontaxable disposals, and taxable sales  
125 | in gallons of diesel fuel ~~and alternative fuel~~, for the  
126 | preceding calendar month ~~as may be~~ required by the department.  
127 | However, if the 20th day falls on a Saturday, a Sunday, or a  
128 | federal or state legal holiday, returns shall be accepted if  
129 | postmarked on the next succeeding workday. The reports must  
130 | include, ~~shall contain~~ or be verified by, a written declaration  
131 | stating that they are ~~such report is~~ made under the penalties of  
132 | perjury. The diesel fuel registrant shall deduct from the amount  
133 | of taxes shown by the report to be payable an amount equivalent  
134 | to .67 percent of the taxes on diesel fuel imposed by s.

135 | 206.87(1)(a) and (e), which deduction is ~~hereby~~ allowed to the  
136 | diesel fuel registrant on account of services and expenses in  
137 | complying with the provisions of this part. The allowance on  
138 | taxable gallons of diesel fuel sold to persons licensed under  
139 | this chapter is not ~~shall not be~~ deductible unless the diesel  
140 | fuel registrant has allowed 50 percent of the allowance provided

141 by this section to a purchaser with a valid wholesaler or  
 142 terminal supplier license. This allowance is not ~~shall not be~~  
 143 deductible unless payment of the taxes is made on or before the  
 144 20th day of the month as ~~herein~~ required in this subsection.  
 145 ~~Nothing in~~ This subsection does not ~~shall be construed to~~  
 146 authorize a deduction from the constitutional fuel tax or fuel  
 147 sales tax.

148 Section 6. The Division of Law Revision and Information is  
 149 requested to create part V of chapter 206, Florida Statutes,  
 150 consisting of ss. 206.9951-206.998, entitled "NATURAL GAS FUEL."

151 Section 7. Section 206.9951, Florida Statutes, is created  
 152 to read:

153 206.9951 Definitions.—As used in this part, the term:

154 (1) "Motor fuel equivalent gallon" means the volume of  
 155 natural gas fuel it takes to equal the energy content of 1  
 156 gallon of motor fuel.

157 (2) "Natural gas fuel" means any liquefied petroleum gas  
 158 product, compressed natural gas product, or combination thereof  
 159 used in a motor vehicle as defined in s. 206.01(23). This term  
 160 includes, but is not limited to, all forms of fuel commonly or  
 161 commercially known or sold as natural gasoline, butane gas,  
 162 propane gas, or any other form of liquefied petroleum gas,  
 163 compressed natural gas, or liquefied natural gas.

164 (3) "Natural gas fuel retailer" means any person who sells  
 165 natural gas fuel for use in a motor vehicle as defined in s.  
 166 206.01(23).

167 (4) "Natural gasoline" is a liquid hydrocarbon that is  
 168 produced by natural gas and must be blended with other liquid

169 petroleum products to produce motor fuel.

170 (5) "Person" means a natural person, corporation,  
 171 copartnership, firm, company, agency, or association; a state  
 172 agency; a federal agency; or a political subdivision of the  
 173 state.

174 Section 8. Section 206.9952, Florida Statutes, is created  
 175 to read:

176 206.9952 Application for license as a natural gas fuel  
 177 retailer.-

178 (1) It is unlawful for any person to engage in business as  
 179 a natural gas fuel retailer within this state unless the person  
 180 is the holder of a valid license issued by the department to  
 181 engage in such business.

182 (2) A person who has facilities for placing natural gas  
 183 fuel into the supply system of an internal combustion engine  
 184 fueled by individual portable containers of 10 gallons or less  
 185 is not required to be licensed as a natural gas fuel retailer,  
 186 provided that the fuel is only used for exempt purposes.

187 (3) (a) Any person who acts as a natural gas retailer and  
 188 does not hold a valid natural gas fuel retailer license shall  
 189 pay a penalty of \$200 for each month of operation without a  
 190 license. This paragraph expires December 31, 2018.

191 (b) Effective January 1, 2019, any person who acts as a  
 192 natural gas fuel retailer and does not hold a valid natural gas  
 193 fuel retailer license shall pay a penalty of 25 percent of the  
 194 tax assessed on the total purchases made during the unlicensed  
 195 period.

196 (4) To procure a natural gas fuel retailer license, a

197 person shall file an application and a bond with the department  
 198 on a form prescribed by the department. The department may not  
 199 issue a license upon the receipt of any application unless it is  
 200 accompanied by a bond.

201 (5) When a natural gas fuel retailer license application  
 202 is filed by a person whose previous license was canceled for  
 203 cause by the department or the department believes that such  
 204 application was not filed in good faith or is filed by another  
 205 person as a subterfuge for the actual person in interest whose  
 206 previous license has been canceled, the department may, if  
 207 evidence warrants, refuse to issue a license for such an  
 208 application.

209 (6) Upon the department's issuance of a natural gas fuel  
 210 retailer license, such license remains in effect so long as the  
 211 natural gas fuel retailer is in compliance with the requirements  
 212 of this part.

213 (7) Such license may not be assigned and is valid only for  
 214 the natural gas fuel retailer in whose name the license is  
 215 issued. The license shall be displayed conspicuously by the  
 216 natural gas fuel retailer in the principal place of business for  
 217 which the license was issued.

218 (8) With the exception of a state or federal agency or a  
 219 political subdivision licensed under this chapter, each person,  
 220 as defined in this part, who operates as a natural gas fuel  
 221 retailer shall report monthly to the department and pay a tax on  
 222 all natural gas fuel purchases beginning January 1, 2019.

223 (9) The license application requires a license fee of \$5.  
 224 Each license shall be renewed annually by submitting a

225 reapplication and the license fee to the department. The license  
 226 fee shall be paid to the department for deposit into the General  
 227 Revenue Fund.

228 Section 9. Section 206.9955, Florida Statutes, is created  
 229 to read:

230 206.9955 Levy of natural gas fuel tax.-

231 (1) The motor fuel equivalent gallon means the following  
 232 for:

233 (a) Compressed natural gas gallon: 5.66 pounds, or per  
 234 each 126.67 cubic feet.

235 (b) Liquefied natural gas gallon: 6.22 pounds.

236 (c) Liquefied petroleum gas gallon: 1.35 gallons.

237 (2) Effective January 1, 2019, the following taxes shall  
 238 be imposed:

239 (a) An excise tax of 4 cents upon each motor fuel  
 240 equivalent gallon of natural gas fuel.

241 (b) An additional tax of 1 cent upon each motor fuel  
 242 equivalent gallon of natural gas fuel, which is designated as  
 243 the "ninth-cent fuel tax."

244 (c) An additional tax of 6 cents on each motor fuel  
 245 equivalent gallon of natural gas fuel by each county, which is  
 246 designated as the "local option fuel tax."

247 (d) An additional tax on each motor fuel equivalent gallon  
 248 of natural gas fuel, which is designated as the "State  
 249 Comprehensive Enhanced Transportation System Tax," at a rate  
 250 determined pursuant to this paragraph. Each calendar year, the  
 251 department shall determine the tax rate applicable to the sale  
 252 of natural gas fuel for the following 12-month period beginning

253 January 1, rounded to the nearest tenth of a cent, by adjusting  
 254 the initially established tax rate of 7.1 cents per gallon by  
 255 the percentage change in the average of the Consumer Price Index  
 256 issued by the United States Department of Labor for the most  
 257 recent 12-month period ending September 30.

258 (e)1. An additional tax is imposed on each motor fuel  
 259 equivalent gallon of natural gas fuel for the privilege of  
 260 selling natural gas fuel and is designated as the "fuel sales  
 261 tax." Each calendar year, the department shall determine the tax  
 262 rate applicable to the sale of natural gas fuel, rounded to the  
 263 nearest tenth of a cent, for the following 12-month period  
 264 beginning January 1. The tax rate is calculated by adjusting the  
 265 initially established tax rate of 12.9 cents per gallon by the  
 266 percentage change in the average of the Consumer Price Index  
 267 issued by the United States Department of Labor for the most  
 268 recent 12-month period ending September 30.

269 2. The department is authorized to adopt rules and publish  
 270 forms to administer this paragraph.

271 (3) Unless otherwise provided by this chapter, the taxes  
 272 specified in subsection (2) are imposed on natural gas fuel when  
 273 it is placed into the fuel supply tank of a motor vehicle as  
 274 defined in s. 206.01(23). The person liable for payment of the  
 275 taxes imposed by this section is the person selling the fuel to  
 276 the end user, for use in the fuel supply tank of a motor vehicle  
 277 as defined in s. 206.01(23).

278 Section 10. Section 206.996, Florida Statutes, is created  
 279 to read:

280 206.996 Monthly reports by natural gas fuel retailers;

281 deductions.-

282 (1) For the purpose of determining the amount of taxes  
 283 imposed by s. 206.9955, each natural gas fuel retailer shall  
 284 file beginning February 2019, and each month thereafter, no  
 285 later than the 20th day of each month, monthly reports  
 286 electronically with the department showing information on  
 287 inventory, purchases, nontaxable disposals, and taxable sales in  
 288 gallons of natural gas fuel for the preceding month. However, if  
 289 the 20th day of the month falls on a Saturday, Sunday, or  
 290 federal or state legal holiday, a return must be accepted if it  
 291 is electronically filed on the next succeeding business day. The  
 292 reports must include, or be verified by, a written declaration  
 293 stating that such report is made under the penalties of perjury.  
 294 The natural gas fuel retailer shall deduct from the amount of  
 295 taxes shown by the report to be payable an amount equivalent to  
 296 0.67 percent of the taxes on natural gas fuel imposed by s.  
 297 206.9955(2)(a) and (e), which deduction is allowed to the  
 298 natural gas fuel retailer to compensate it for services rendered  
 299 and expenses incurred in complying with the requirements of this  
 300 part. This allowance is not deductible unless payment of  
 301 applicable taxes is made on or before the 20th day of the month.  
 302 This subsection may not be construed as authorizing a deduction  
 303 from the constitutional fuel tax or the fuel sales tax.

304 (2) Upon the electronic filing of the monthly report, each  
 305 natural gas fuel retailer shall pay the department the full  
 306 amount of natural gas fuel taxes for the preceding month at the  
 307 rate provided in s. 206.9955, less the amount allowed the  
 308 natural gas fuel retailer for services and expenses as provided



309 in subsection (1).

310 (3) The department may authorize a quarterly return and  
 311 payment of taxes when the taxes remitted by the natural gas fuel  
 312 retailer for the preceding quarter did not exceed \$100, and the  
 313 department may authorize a semiannual return and payment of  
 314 taxes when the taxes remitted by the natural gas fuel retailer  
 315 for the preceding 6 months did not exceed \$200.

316 (4) In addition to the allowance authorized by subsection  
 317 (1), every natural gas fuel retailer is entitled to a deduction  
 318 of 1.1 percent of the taxes imposed under s. 206.9955(2)(b) and  
 319 (c), on account of services and expenses incurred due to  
 320 compliance with the requirements of this part. This allowance  
 321 may not be deductible unless payment of the tax is made on or  
 322 before the 20th day of the month.

323 Section 11. Section 206.9965, Florida Statutes, is created  
 324 to read:

325 206.9965 Exemptions and refunds; natural gas fuel  
 326 retailers.—Natural gas fuel may be purchased from natural gas  
 327 fuel retailers exempt from the tax imposed by this part when  
 328 used or purchased for the following:

329 (1) Exclusive use by the United States or its departments  
 330 or agencies. Exclusive use by the United States or its  
 331 departments and agencies means the consumption by the United  
 332 States or its departments or agencies of the natural gas fuel in  
 333 a motor vehicle as defined in s. 206.01(23).

334 (2) Use for agricultural purposes as defined in s.  
 335 206.41(4)(c).

336 (3) Uses as provided in s. 206.874(3).

337 (4) Used to propel motor vehicles operated by state and  
 338 local government agencies.

339 (5) Individual use resulting from residential refueling  
 340 devices located at a person's primary residence.

341 (6) Purchases of natural gas fuel between licensed natural  
 342 gas fuel retailers. A natural gas fuel retailer that sells tax-  
 343 paid natural gas fuel to another natural gas fuel retailer may  
 344 take a credit on its monthly return or may file a claim for  
 345 refund with the Chief Financial Officer pursuant to s. 215.26.  
 346 All sales of natural gas fuel between natural gas fuel retailers  
 347 must be documented on invoices or other evidence of the sale of  
 348 such fuel and the seller shall retain a copy of the purchaser's  
 349 natural gas fuel retailer license.

350 Section 12. Section 206.879, Florida Statutes, is  
 351 transferred and renumbered as section 206.997, Florida Statutes,  
 352 and amended to read:

353 206.997 ~~206.879~~ State and local alternative fuel user fee  
 354 clearing trust funds; distribution.-

355 ~~(1)~~ Notwithstanding the provisions of s. 206.875, the  
 356 revenues from the natural gas fuel tax imposed by s. 206.9955  
 357 ~~state alternative fuel fees imposed by s. 206.877~~ shall be  
 358 deposited into the State Alternative Fuel User Fee Clearing  
 359 Trust Fund, which is hereby created. After deducting the service  
 360 charges provided in s. 215.20, the proceeds in this trust fund  
 361 shall be distributed as follows: one-half of the proceeds in  
 362 calendar year 2019 and ~~one-fifth of the proceeds in calendar~~  
 363 ~~year 1991, one-third of the proceeds in calendar year 1992,~~  
 364 ~~three-sevenths of the proceeds in calendar year 1993, and one-~~

365 ~~half of the proceeds in each calendar year thereafter shall be~~  
 366 transferred to the State Transportation Trust Fund; the  
 367 remainder shall be distributed as follows: 50 percent shall be  
 368 transferred to the State Board of Administration for  
 369 distribution according to the provisions of s. 16, Art. IX of  
 370 the State Constitution of 1885, as amended; 25 percent shall be  
 371 transferred to the Revenue Sharing Trust Fund for  
 372 Municipalities; and the remaining 25 percent shall be  
 373 distributed using the formula contained in s. 206.60(1).

374 ~~(2) Notwithstanding the provisions of s. 206.875, the~~  
 375 ~~revenues from the local alternative fuel fees imposed in lieu of~~  
 376 ~~s. 206.87(1)(b) or (c) shall be deposited into The Local~~  
 377 ~~Alternative Fuel User Fee Clearing Trust Fund, which is hereby~~  
 378 ~~created. After deducting the service charges provided in s.~~  
 379 ~~215.20, the proceeds in this trust fund shall be returned~~  
 380 ~~monthly to the appropriate county.~~

381 Section 13. (1) The Local Alternative Fuel User Fee  
 382 Clearing Trust Fund within the Department of Revenue is  
 383 terminated.

384 (2) The Department of Revenue shall pay any outstanding  
 385 debts or obligations of the terminated fund as soon as  
 386 practicable, and the Chief Financial Officer shall close out and  
 387 remove the terminated fund from various state accounting systems  
 388 using generally accepted accounting principles concerning  
 389 warrants outstanding, assets, and liabilities.

390 Section 14. Section 206.998, Florida Statutes, is created  
 391 to read:

392 206.998 Applicability of specified sections of parts I and

393 II.—The provisions of ss. 206.01, 206.02, 206.025, 206.026,  
 394 206.027, 206.028, 206.03, 206.05, 206.055, 206.06, 206.07,  
 395 206.075, 206.09, 206.10, 206.11, 206.12, 206.13, 206.14, 206.15,  
 396 206.16, 206.17, 206.175, 206.18, 206.199, 206.20, 206.204,  
 397 206.205, 206.21, 206.215, 206.22, 206.23, 206.24, 206.25,  
 398 206.27, 206.28, 206.405, 206.406, 206.41, 206.413, 206.43,  
 399 206.44, 206.48, 206.485, 206.49, 206.56, 206.59, 206.606,  
 400 206.608, and 206.61 of part I of this chapter and ss. 206.86,  
 401 206.872, 206.874, 206.8745, 206.88, 206.90, and 206.93 of part  
 402 II of this chapter shall, as far as lawful or practicable, be  
 403 applicable to the tax levied and imposed and to the collection  
 404 thereof as if fully set out in this part. However, any provision  
 405 of any such section does not apply if it conflicts with any  
 406 provision of this part.

407 Section 15. Paragraph (d) of subsection (2) of section  
 408 212.055, Florida Statutes, is amended to read:

409 212.055 Discretionary sales surtaxes; legislative intent;  
 410 authorization and use of proceeds.—It is the legislative intent  
 411 that any authorization for imposition of a discretionary sales  
 412 surtax shall be published in the Florida Statutes as a  
 413 subsection of this section, irrespective of the duration of the  
 414 levy. Each enactment shall specify the types of counties  
 415 authorized to levy; the rate or rates which may be imposed; the  
 416 maximum length of time the surtax may be imposed, if any; the  
 417 procedure which must be followed to secure voter approval, if  
 418 required; the purpose for which the proceeds may be expended;  
 419 and such other requirements as the Legislature may provide.  
 420 Taxable transactions and administrative procedures shall be as

421 provided in s. 212.054.

422 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

423 (d) The proceeds of the surtax authorized by this  
 424 subsection and any accrued interest shall be expended by the  
 425 school district, within the county and municipalities within the  
 426 county, or, in the case of a negotiated joint county agreement,  
 427 within another county, to finance, plan, and construct  
 428 infrastructure; to acquire land for public recreation,  
 429 conservation, or protection of natural resources; to provide  
 430 loans, grants, or rebates to residential or commercial property  
 431 owners who make energy efficiency improvements to their  
 432 residential or commercial property, if a local government  
 433 ordinance authorizing such use is approved by referendum; or to  
 434 finance the closure of county-owned or municipally owned solid  
 435 waste landfills that have been closed or are required to be  
 436 closed by order of the Department of Environmental Protection.  
 437 Any use of the proceeds or interest for purposes of landfill  
 438 closure before July 1, 1993, is ratified. The proceeds and any  
 439 interest may not be used for the operational expenses of  
 440 infrastructure, except that a county that has a population of  
 441 fewer than 75,000 and that is required to close a landfill may  
 442 use the proceeds or interest for long-term maintenance costs  
 443 associated with landfill closure. Counties, as defined in s.  
 444 125.011, and charter counties may, in addition, use the proceeds  
 445 or interest to retire or service indebtedness incurred for bonds  
 446 issued before July 1, 1987, for infrastructure purposes, and for  
 447 bonds subsequently issued to refund such bonds. Any use of the  
 448 proceeds or interest for purposes of retiring or servicing

449 indebtedness incurred for refunding bonds before July 1, 1999,  
 450 is ratified.

451 1. For the purposes of this paragraph, the term  
 452 "infrastructure" means:

453 a. Any fixed capital expenditure or fixed capital outlay  
 454 associated with the construction, reconstruction, or improvement  
 455 of public facilities that have a life expectancy of 5 or more  
 456 years and any related land acquisition, land improvement,  
 457 design, and engineering costs.

458 b. A fire department vehicle, an emergency medical service  
 459 vehicle, a sheriff's office vehicle, a police department  
 460 vehicle, or any other vehicle, and the equipment necessary to  
 461 outfit the vehicle for its official use or equipment that has a  
 462 life expectancy of at least 5 years.

463 c. Any expenditure for the construction, lease, or  
 464 maintenance of, or provision of utilities or security for,  
 465 facilities, as defined in s. 29.008.

466 d. Any fixed capital expenditure or fixed capital outlay  
 467 associated with the improvement of private facilities that have  
 468 a life expectancy of 5 or more years and that the owner agrees  
 469 to make available for use on a temporary basis as needed by a  
 470 local government as a public emergency shelter or a staging area  
 471 for emergency response equipment during an emergency officially  
 472 declared by the state or by the local government under s.  
 473 252.38. Such improvements are limited to those necessary to  
 474 comply with current standards for public emergency evacuation  
 475 shelters. The owner must enter into a written contract with the  
 476 local government providing the improvement funding to make the

477 private facility available to the public for purposes of  
 478 emergency shelter at no cost to the local government for a  
 479 minimum of 10 years after completion of the improvement, with  
 480 the provision that the obligation will transfer to any  
 481 subsequent owner until the end of the minimum period.

482 e. Any land acquisition expenditure for a residential  
 483 housing project in which at least 30 percent of the units are  
 484 affordable to individuals or families whose total annual  
 485 household income does not exceed 120 percent of the area median  
 486 income adjusted for household size, if the land is owned by a  
 487 local government or by a special district that enters into a  
 488 written agreement with the local government to provide such  
 489 housing. The local government or special district may enter into  
 490 a ground lease with a public or private person or entity for  
 491 nominal or other consideration for the construction of the  
 492 residential housing project on land acquired pursuant to this  
 493 sub-subparagraph.

494 2. For the purposes of this paragraph, the term "energy  
 495 efficiency improvement" means any energy conservation and  
 496 efficiency improvement that reduces consumption through  
 497 conservation or a more efficient use of electricity, natural  
 498 gas, propane, or other forms of energy on the property,  
 499 including, but not limited to, air sealing; installation of  
 500 insulation; installation of energy-efficient heating, cooling,  
 501 or ventilation systems; installation of solar panels; building  
 502 modifications to increase the use of daylight or shade;  
 503 replacement of windows; installation of energy controls or  
 504 energy recovery systems; installation of electric vehicle

505 charging equipment; installation of systems for natural gas fuel  
 506 as defined in s. 206.9951; and installation of efficient  
 507 lighting equipment.

508 3. Notwithstanding any other provision of this subsection,  
 509 a local government infrastructure surtax imposed or extended  
 510 after July 1, 1998, may allocate up to 15 percent of the surtax  
 511 proceeds for deposit into ~~in~~ a trust fund within the county's  
 512 accounts created for the purpose of funding economic development  
 513 projects having a general public purpose of improving local  
 514 economies, including the funding of operational costs and  
 515 incentives related to economic development. The ballot statement  
 516 must indicate the intention to make an allocation under the  
 517 authority of this subparagraph.

518 Section 16. Subsection (4) of section 212.08, Florida  
 519 Statutes, is amended to read:

520 212.08 Sales, rental, use, consumption, distribution, and  
 521 storage tax; specified exemptions.—The sale at retail, the  
 522 rental, the use, the consumption, the distribution, and the  
 523 storage to be used or consumed in this state of the following  
 524 are hereby specifically exempt from the tax imposed by this  
 525 chapter.

526 (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES, ETC.—

527 (a) Also exempt are:

528 1. Water delivered to the purchaser through pipes or  
 529 conduits or delivered for irrigation purposes. The sale of  
 530 drinking water in bottles, cans, or other containers, including  
 531 water that contains minerals or carbonation in its natural state  
 532 or water to which minerals have been added at a water treatment



533 facility regulated by the Department of Environmental Protection  
 534 or the Department of Health, is exempt. This exemption does not  
 535 apply to the sale of drinking water in bottles, cans, or other  
 536 containers if carbonation or flavorings, except those added at a  
 537 water treatment facility, have been added. Water that has been  
 538 enhanced by the addition of minerals and that does not contain  
 539 any added carbonation or flavorings is also exempt.

540 2. All fuels used by a public or private utility,  
 541 including any municipal corporation or rural electric  
 542 cooperative association, in the generation of electric power or  
 543 energy for sale. Fuel other than motor fuel and diesel fuel is  
 544 taxable as provided in this chapter with the exception of fuel  
 545 expressly exempt herein. Natural gas fuel as defined in s.  
 546 206.9951(2) is exempt from the tax imposed by this chapter when  
 547 placed into the fuel supply system of a motor vehicle. Motor  
 548 fuels and diesel fuels are taxable as provided in chapter 206,  
 549 with the exception of those motor fuels and diesel fuels used by  
 550 railroad locomotives or vessels to transport persons or property  
 551 in interstate or foreign commerce, which are taxable under this  
 552 chapter only to the extent provided herein. The basis of the tax  
 553 shall be the ratio of intrastate mileage to interstate or  
 554 foreign mileage traveled by the carrier's railroad locomotives  
 555 or vessels that were used in interstate or foreign commerce and  
 556 that had at least some Florida mileage during the previous  
 557 fiscal year of the carrier, such ratio to be determined at the  
 558 close of the fiscal year of the carrier. However, during the  
 559 fiscal year in which the carrier begins its initial operations  
 560 in this state, the carrier's mileage apportionment factor may be

561 | determined on the basis of an estimated ratio of anticipated  
 562 | miles in this state to anticipated total miles for that year,  
 563 | and subsequently, additional tax shall be paid on the motor fuel  
 564 | and diesel fuels, or a refund may be applied for, on the basis  
 565 | of the actual ratio of the carrier's railroad locomotives' or  
 566 | vessels' miles in this state to its total miles for that year.  
 567 | This ratio shall be applied each month to the total Florida  
 568 | purchases made in this state of motor and diesel fuels to  
 569 | establish that portion of the total used and consumed in  
 570 | intrastate movement and subject to tax under this chapter. The  
 571 | basis for imposition of any discretionary surtax shall be set  
 572 | forth in s. 212.054. Fuels used exclusively in intrastate  
 573 | commerce do not qualify for the proration of tax.

574 |         3. The transmission or wheeling of electricity.

575 |             (b) Alcoholic beverages and malt beverages are not exempt.  
 576 | The terms "alcoholic beverages" and "malt beverages" as used in  
 577 | this paragraph have the same meanings ascribed to them in ss.  
 578 | 561.01(4) and 563.01, respectively. It is determined by the  
 579 | Legislature that the classification of alcoholic beverages made  
 580 | in this paragraph for the purpose of extending the tax imposed  
 581 | by this chapter is reasonable and just, and it is intended that  
 582 | such tax be separate from, and in addition to, any other tax  
 583 | imposed on alcoholic beverages.

584 |         Section 17. This act shall take effect January 1, 2014.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 667 Real Estate Brokers and Appraisers

**SPONSOR(S):** Rulemaking Oversight & Repeal Subcommittee; Business & Professional Regulation Subcommittee; Porter

**TIED BILLS:** IDEN./SIM. BILLS: CS/SB 852

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professional Regulation Subcommittee	10 Y, 0 N, As CS	Collins	Luczynski
2) Rulemaking Oversight & Repeal Subcommittee	11 Y, 0 N, As CS	Miller	Rubottom
3) Regulatory Affairs Committee		Collins <i>JC</i>	Hamon <i>K.W.H.</i>

### SUMMARY ANALYSIS

The bill amends ch. 475, F.S., to comply with policies promulgated by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council and the Appraisal Qualifications Board of the Appraisal Foundation. Specifically, the bill:

- Removes the term "licensed appraiser" from the definition of "supervisory appraiser;"
- Eliminates the reference to "licensed" appraisers from the supervisory requirements for trainee real estate appraisers;
- Eliminates the Florida Real Estate Appraisal Board's ability to consider the subsequent passage of time and good behavior when considering the application of a person who has prior discipline and criminal history, and instead requires the applicant to meet the conditions set forth by the Appraisal Qualifications Board; and
- Updates a reference regarding the adoption of the most recent Appraisal Qualifications Board Qualification Criteria.

Additionally, the bill amends s. 475.215(1), F.S., to place additional limitations on additional brokers' licenses. Specifically, the bill:

- Provides that an additional license may not be issued if that license will be used in a manner that is likely to be harmful to any person;
- Provides the Florida Real Estate Commission with the ability to deny a multiple license request in certain circumstances; and
- Provides that a final order of discipline against the primary brokers' license applies to both the primary license and to any multiple licenses held by that broker at the time the final order becomes effective.

The bill has an indeterminate, but insignificant fiscal impact on state funds. See fiscal comments.

The bill is effective upon becoming law, except as otherwise expressly provided.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background of the Appraisal Industry**

###### The Appraisal Foundation

The Appraisal Foundation (TAF) is a private, non-profit educational organization that was formed in 1987 to promote professionalism in the valuation industry.<sup>1</sup> TAF is governed by a Board of Trustees, which oversees three independent boards:

- The Appraisal Standards Board (ASB), which establishes the generally-accepted standards of the profession, known as the Uniform Standards of Professional Appraisal Practice (USPAP);
- The Appraiser Qualifications Board (AQB), which establishes the minimum education, experience, and examination requirements for appraisers; and
- The Appraisal Practices Board (APB), which is responsible for developing best practices and voluntary guidance to professionals.<sup>2</sup>

###### The Appraisal Subcommittee (ASC)

###### *Generally*

The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council was created in 1989, pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).<sup>3</sup> Because the savings and loan crisis of the 1980s was caused in part by questionable real estate lending practices, the purpose of Title XI was to ensure real estate appraisals pertaining to federally related real estate transactions, including those insured or guaranteed through various federal programs, were in writing, met uniform standards, and were prepared by appraisers who met standards of competence and were subject to effective supervision.<sup>4</sup> The ASC is charged with monitoring the states' appraisal regulatory programs.<sup>5</sup> Moreover, it is responsible for monitoring and reviewing the activities of the Appraisal Foundation and its three Boards.<sup>6</sup> As such, the ASC oversees Florida's appraiser regulatory program, administered by the Department of Business and Professional Regulation (Department).

The ASC has six members, designated by the heads of the:

- Board of Governors of the Federal Reserve System (FRB);
- Federal Deposit Insurance Corporation (FDIC);
- Office of the Comptroller of the Currency (OCC);
- Office of Thrift Supervision (OTS);
- National Credit Union Administration (NCUA); and
- Department of Housing and Urban Development (HUD).<sup>7</sup>

###### *Reviews and Enforcement*

The ASC conducts biennial on-site reviews of each state's appraisal agency, with more frequent visits to states with weak enforcement programs.<sup>8</sup> The ASC has the ability to disapprove a state's appraisal

<sup>1</sup> <https://www.asc.gov/About-the-ASC/ASCHistory.aspx>, last visited on February 27, 2013.

<sup>2</sup> Id.

<sup>3</sup> See, generally: 12 U.S.C. ss. 3331-3351.

<sup>4</sup> 12 U.S.C. s. 3331.

<sup>5</sup> 12 U.S.C. s. 3332(a).

<sup>6</sup> 12 U.S.C. s. 3332(b).

<sup>7</sup> 12 C.F.R. s. 1102.303(b).

regulatory program, which effectively disqualifies that state's appraisers from conducting appraisals for federally-related transactions.<sup>9</sup> A "federally-related transaction" is any real estate-related financial transaction which: 1) a federal financial institution's regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and 2) requires the services of an appraiser.<sup>10</sup>

### The Florida Real Estate Appraisal Board

The Florida Real Estate Appraisal Board (FREAB), within the Division of Real Estate at the Department, administers and enforces the state's real estate appraiser laws.<sup>11</sup> Specifically, through its rules, the FREAB has the power to:

- Regulate the issuance of licenses, certifications, registrations, and permits;
- Discipline appraisers;
- Establish qualifications for licenses, certifications, registrations, and permits;
- Regulate approved courses;
- Establish standards for real estate appraisers; and
- Establish standards for and regulate supervisory appraisers.<sup>12</sup>

As discussed above, the ASC has oversight over the state's appraisal regulatory program, as administered by the FREAB within the Department.

### Administrative Procedures for Disciplinary Cases

#### The Administrative Procedure Act and Appraiser Disciplinary Proceedings

##### *Investigation, Probable Cause, and Filing the Formal Complaint*

Disciplinary cases before the FREAB are investigated and prosecuted by the Department.<sup>13</sup> A case begins when a complaint<sup>14</sup> is filed with the Department. As the Department may investigate only legally sufficient complaints,<sup>15</sup> upon receipt a complaint is reviewed by intake staff for compliance with the statutory standard.

- This initial step typically is accomplished within 10 working days from receipt.

If necessary to determine legal sufficiency the Department may request additional information. Such correspondence with complainants will extend this determination for an indefinite period before a case is assigned for investigation.

Legally sufficient complaints are investigated by the Department.<sup>16</sup> The case is assigned to a Department investigator and a copy of the complaint sent to the registrant for response.<sup>17</sup>

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<sup>8</sup> <https://www.asc.gov/About-the-ASC/ASCHistory.aspx>, last visited on February 27, 2013.

<sup>9</sup> See, generally: 12 U.S.C. s. 3347 and 12 C.F.R. s. 1102 Subpart B.

<sup>10</sup> 12 U.S.C. s. 3350(4).

<sup>11</sup> See, generally: s. 475.613, F. S.

<sup>12</sup> Section 475.613(2), F. S.

<sup>13</sup> Section 455.225, F.S.

<sup>14</sup> Most complaints must be in writing and signed by the complainant, although the statute makes limited provision for anonymous complaints or those made by confidential informants.

<sup>15</sup> "A complaint is legally sufficient if it contains ultimate facts that show that a violation of this chapter, of any of the practice acts relating to the professions regulated by the department, or of any rule adopted by the department or a regulatory board in the department has occurred." Section 455.225(1)(a), F.S.

<sup>16</sup> Section 455.225(1)(a), F.S. The statute provides an alternative to the investigation process by authorizing the Department to issue "notices of noncompliance" to registrants for minor violations that neither cause harm, nor demonstrate professional incompetence, nor threaten public health, safety, or welfare. Section 455.225(3)(a), F.S.

<sup>17</sup> Section 455.225(1)(b), F.S. The registrant has 20 days from receipt to file a response.

- The statute fixes no set time to investigate complaints;<sup>18</sup> according to the Department, investigations of complaints against appraisers typically take more than 100 days.

Once the investigation is complete the Department submits the investigative report to a probable cause panel of the FREAB.<sup>19</sup> A typical report details the Department's investigative findings, provides copies of the complaint and all relevant documents, contains the Department's legal recommendation as to whether further action is warranted, and provides a draft administrative complaint for the panel's consideration (if that is the Department's recommendation).

As with most regulatory boards, meetings of the FREAB probable cause panel coincide with regular meetings of the board. The FREAB currently meets bi-monthly. The statute imposes no specific time by which the Department must submit its investigative report for consideration of probable cause. Although meetings of probable cause panels for licensing boards under the Department are not open to the public before a finding of probable cause (unless the registrant waives such confidentiality),<sup>20</sup> because of concerns expressed by ASC the Department and FREAB permit the registrant to appear before the panel and respond to the investigative report.

The panel has 30 days from receiving the final investigative report to determine probable cause.<sup>21</sup> If the panel neither acts to determine probable cause nor issues the registrant a letter of guidance in lieu of finding probable cause, the Department has 10 days to determine probable cause.<sup>22</sup>

If the panel finds probable cause for administrative action against the registrant, at the same meeting the chair of the panel typically signs the finding that directs the Department to file the formal complaint. Because of the confidentiality requirement discussed above, in cases where the registrant has not waived confidentiality the Department waits until the 10 day period expires before filing the formal complaint. The Department files the formal administrative complaint with its agency clerk and initiates the administrative proceeding by serving a copy of the complaint on the registrant.<sup>23</sup> Initial service typically is by certified mail in order to document the date the registrant receives the formal complaint.

- Use of certified mail adds 5 days to the time for response.<sup>24</sup>
- The registrant has 21 days from receiving the formal complaint to respond to the allegations and request a hearing.<sup>25</sup>
- Because a failure to respond within 21 days waives the right to a hearing,<sup>26</sup> the Department normally waits at least 5 days after the 21 day deadline before proceeding to allow time for delivery of a request postmarked on the 21<sup>st</sup> day. Thus, in a typical case up to 31 days may elapse before the Department receives a response to the formal complaint.

<sup>18</sup> "The department shall allocate sufficient and adequately trained staff to expeditiously and thoroughly determine legal sufficiency and investigate all legally sufficient complaints." Section 455.225(2), F.S. These terms are not defined in the statute and are given their "ordinary and customary" definitions. "Expeditious" means to act with speed and efficiency. *The American Heritage Dictionary of the English Language* (4<sup>th</sup> ed.), 625.

<sup>19</sup> Determination of probable cause to proceed with filing administrative action against the subject of the investigation is made by a panel of the FREAB, not the Department. Rule 61J1-1.009(1), F.A.C.

<sup>20</sup> All meetings of the probable cause panel are exempted from the requirements for public meetings in s.286.011, F.S., until 10 days after a finding of probable cause. Section 455.225(4), F.S. This includes the notice and agenda requirements for public meetings under s. 120.525, F.S.

<sup>21</sup> Section 455.225(4), F.S. The statute provides the panel 15 days from receiving the initial report to make a reasonable request for additional information; the 30 day period would begin only after the requested information is furnished. The Secretary of the Department may extend the 15 and 30 day periods.

<sup>22</sup> Section 455.225(4), F.S. The Department has not yet responded to an inquiry from staff as to the percentage of cases presented to the FREAB panel that result in a finding of probable cause.

<sup>23</sup> Rule 28-106.2015(3), F.A.C.

<sup>24</sup> Rule 28-106.103, F.A.C.

<sup>25</sup> Rule 28-101.111(2), F.A.C.

<sup>26</sup> Rule 28-106.111(4), F.A.C.

The registrant's response to the formal complaint determines the type and length of administrative proceedings before the FREAB takes final action. If the registrant does not respond, the attorney for the Department will notify counsel for the FREAB<sup>27</sup> who will prepare a final order for consideration and action at the next board meeting. If the registrant responds but does not dispute any alleged material fact, the Department grants a hearing to be set before the FREAB at its next meeting. The registrant is notified of the opportunity to appear before the FREAB and respond to the application of law and imposition of discipline proposed in the formal complaint, including the opportunity to present matters mitigating the proposed discipline.<sup>28</sup> At the conclusion of the hearing the FREAB directs board counsel to prepare a final order for execution by the executive director of the FREAB<sup>29</sup> (see discussion on Final Orders by the FREAB, below). If the registrant responds and disputes the facts of the formal complaint, the Department has 15 days to grant the hearing request and refer the case to the Division of Administrative Hearings (DOAH).<sup>30</sup>

- The Department typically contacts the registrant (or the registrant's attorney or qualified representative if the response was signed on behalf of the registrant) to negotiate a settlement before referring the case to DOAH.
- There is no fixed time for these negotiations.

### *Proceedings before DOAH*

The normal hearing process before DOAH is conducted pursuant to ss. 12.569 and 120.57(1), F.S. Five days from receiving a hearing referral from the Department, DOAH issues an initial order designating the administrative law judge (ALJ) to whom the case is assigned, providing additional information, and advising of the availability of the summary hearing procedure in s. 120.574, F.S.<sup>31</sup> The initial order requires the parties to file within 7 days a notice of basic information. Usually within a day of receiving this response the ALJ issues an order scheduling the case for final hearing, typically within less than 90 days from the date of the scheduling order.

Within the time constraints established by the scheduled hearing, the Department and the registrant may conduct discovery.<sup>32</sup> In a typical case, if a party requests a continuance of the final hearing on good grounds the ALJ will grant at least one such continuance. If so, the final hearing likely will be conducted more than 100 days after referral by the Department. According to the Department, final evidentiary hearings in cases against FREAB registrants usually take no more than 4 hours.

The Department is responsible for preserving the testimony at the hearing and providing a transcript at actual cost.<sup>33</sup> This is commonly done by contract with a certified court reporter. The ALJ usually allows the parties 10 days from the filing of the official transcript to submit proposed recommended orders, and then completes and submits to the Department a recommended order within 30 days from the date the transcript is filed.<sup>34</sup>

### *Final Orders by the FREAB*

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<sup>27</sup> Section 455.221, F.S. The Department contracts with the Department of Legal Affairs to provide separate counsel for FREAB. Under s. 455.221(3), F.S., the same attorney cannot both prosecute a case and provide counsel for the board on the same matter.

<sup>28</sup> Section 120.57(2), F.S., Rule 28-106.302, F.A.C.

<sup>29</sup> Under s. 455.203(2), F.S., the Department appoints the executive director of FREAB, subject to board approval.

<sup>30</sup> Section 120.569(2)(a), F.S. However, the only consequence if an agency does not comply with the 15 day time limit is the possibility of the respondent seeking a writ of mandamus from circuit court to compel the referral.

<sup>31</sup> Section 120.574(1)(a), F.S.

<sup>32</sup> Section 120.569(2)(f), F.S., Rule 28-106.206, F.A.C.

<sup>33</sup> Section 120.57(1)(g), F.S., Rule 28-106.214, F.A.C.

<sup>34</sup> Rule 28-106.216, F.A.C.



For cases referred to DOAH, once the ALJ enters the recommended final order both the Department and registrant have 15 days to file exceptions to the recommended findings of fact and conclusions of law, followed by 10 days to respond to the other's exceptions.<sup>35</sup>

- If these documents are delivered by mail 5 days is added to each deadline, so that the final filing may be due as much as 35 days after the ALJ enters the recommended order.

The recommended order and any exceptions and responses thereto are submitted for consideration by the FREAB at its next meeting. The board rules on the various exceptions and whether to accept the ALJ's recommendations.<sup>36</sup> After reviewing the recommended order and exceptions from a DOAH proceeding, or conducting the hearing under s. 120.57(2), F.S., if the registrant did not dispute the material facts, the FREAB directs board counsel to prepare the final order. If the registrant did not respond to the formal complaint, the FREAB may consider a proposed final order prepared by board counsel and either approves the proposal or direct counsel to prepare a different order.

According to the Department, once the FREAB approves the final order an additional 30 – 60 days is required for board counsel and staff to generate, execute, file, and serve the final order.

#### *Summary proceedings under s. 120.574*

The APA provides a summary hearing procedure as an alternative to conventional hearings before DOAH.<sup>37</sup> After the Department refers a case to DOAH, any party may move for a summary hearing within 15 days from the ALJ's service of the initial order; if all parties consent to using the summary hearing procedure, the final summary hearing is conducted within 30 days from the date all parties agree.<sup>38</sup> Available discovery is very restricted.<sup>39</sup> A party may move at any time to continue the final hearing or to have the proceedings conducted under the normal hearing process of ss. 120.569 and 120.57(1), F.S. If the case proceeds under the summary procedure, the ALJ, not the FREAB, renders the final order in the case no later than 30 days after the conclusion of the hearing or the filing of the transcript, whichever is later.<sup>40</sup>

#### Federal Concerns with Florida Disciplinary Process

ASC policy encourages state regulators to resolve appraisal cases within one year.<sup>41</sup> When following the current administrative hearing process as outlined above, the Department currently is unable to resolve all cases within one year.<sup>42</sup> This inability to achieve 100% compliance with ASC Policy Statement 10E<sup>43</sup> places the Department at risk of the ASC initiating a written finding that would

<sup>35</sup> Section 120.57(1)(k), F.S., Rule 28-106.217, F.A.C.

<sup>36</sup> The Department has not yet responded to an inquiry from staff as to the percentage of cases in which the FREAB adopts the recommended conclusions of law pertaining to finding violations of ch. 475, Part I, F.S., or the rules of the board, and the percentage of cases in which the board accepts the recommended sanctions.

<sup>37</sup> Section 120.574, F.S.

<sup>38</sup> Section 120.574(1)(b), F.S.

<sup>39</sup> Section 120.574(2)(a)2., F.S.

<sup>40</sup> Section 120.574(2)(f), F.S.

<sup>41</sup> "Appraisal Subcommittee Policy Statements" (Oct. 2008), Statement 10E, page 19. Title XI is silent on the time required for state regulators to complete disciplinary cases but authorizes the ASC to disapprove a state's appraiser certifications if that state "fails to recognize and enforce the standards, requirements, and procedures prescribed pursuant to this chapter ..." 12 U.S.C. s. 3347(b)(1). Although the 12 month standard has been a policy for over 10 years, it is not supported by any empirical data showing a pronounced increase in risk to economic transactions or the general public if a case takes longer than 12 months to complete. (From statements by Jim Park, Director of ASC, in a meeting attended by House and Senate Staff, the Department, and DOAH, 3/8/2013).

<sup>42</sup> The Department has indicated its inability to routinely comply with ASC Policy Statement 10E, which provides that appraisal cases be resolved within one year. Department of Business and Professional Regulation 2013 Legislative Analysis, page 2, dated February 18, 2013, on file with BPR subcommittee.

<sup>43</sup> Policy Statement 10E does allow for proceedings exceeding 12 months in "special documented circumstances." The Department takes the position that the present administrative adjudicatory process leaves it unable to process even routine contested cases in less than 12 months.

disapprove Florida's regulatory process and "de-certify" all appraisers in Florida from providing appraisals for federal transactions.<sup>44</sup>

Recently, the ASC released its compliance review report for the Department for the period of December 2009 through December 2011. The review found that at the time of the review, Florida had 415 outstanding complaints, 101 of which were unresolved for more than one year. Only four were considered "special documented circumstances," and thus, exempt from the one-year policy. The effect is that twenty-three percent of Florida's complaints were unresolved for more than one year at the time of the review.<sup>45</sup> Moreover, in 2010, the state had a similar negative review by the ASC.<sup>46</sup>

Due to ASC concerns about the time for resolving complaints, the Department must submit quarterly complaint logs to the ASC staff for review.<sup>47</sup> Further, the ASC has indicated it would place additional requirements upon the Department if progress is not made.<sup>48</sup>

Some states such as Mississippi are in compliance with the ASC policies. The Mississippi Appraisal Board (MAB) conducts all disciplinary proceedings under rules of the board. Similar to Florida, complaints initially are reviewed for legal sufficiency. If so, a response is requested from the registrant within 20 days. Unlike Florida, the investigation begins once this 20 day response period expires.<sup>49</sup> Unlike Florida, there is no probable cause panel; if the investigation indicates a violation occurred the hearing process may commence. Hearings are conducted by a hearing officer appointed by the MAB but the board issues the final order making findings of fact and conclusions of law and imposing the requisite discipline.<sup>50</sup> This process appears to have few fixed time frames, allowing flexibility to move more quickly while preserving the right of the registrant to notice and a meaningful hearing.

## **Definition of "Appraiser"**

### **Current Situation**

The ASC has established two title designations for appraisers: "state licensed" and "state certified." The AQB approved a third designation, "certified residential appraiser," which the ASC also recognizes. The ASC strongly urges states to use these federally-recognized designations or titles in order to decrease the likelihood of confusion among users, and to prevent the employment of appraisers who do not have the required designation to perform the appraisal for which they are engaged.<sup>51</sup>

Since July 1, 2003, Florida does not issue new credentials for "licensed" appraisers. Moreover, the AQB no longer permits licensed appraisers to supervise trainee appraisers- only certified appraisers may act as supervisory appraisers.<sup>52</sup> Despite this new criteria, Florida's statutory language still defines

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<sup>44</sup> 12 U.S.C. s. 3347(b).

<sup>45</sup> Appraisal Subcommittee Compliance Review Report, page 5, dated June 13, 2012, on file with BPR subcommittee.

<sup>46</sup> The ASC compliance review report for the period of December 2007 through December 2009 found that thirty-three percent of all of the Department's cases were unresolved for longer than one year. ASC Compliance Review Report, page 3, dated June 14, 2010, on file with BPR subcommittee.

<sup>47</sup> Appraisal Subcommittee Compliance Review Report, page 5, dated June 13, 2012, on file with BPR subcommittee.

<sup>48</sup> Id. The Department has expressed concern that ASC could penalize the Department, including the imposition of fines. When asked whether ASC had such authority, and its source, ASC personnel only generally refer to the amendments to Title XI made by the Dodd-Frank Wall Street Reform and Consumer Protection Act. Section 1473(k) of the Dodd-Frank Act amends 12 U.S.C. s. 3347 by providing greater specificity for ASC's oversight function, including in these criteria a standard for state regulatory programs to resolve complaints "in a reasonable time period." In addition to decertifying the appraisers in a state with a non-complying regulatory program the ASC now has the authority to remove appraisers from the national registry for up to 90 days pending state licensing or regulatory proceedings. The authority of the ASC to impose sanctions against a state is limited to those described in 12 U.S.C. s. 3347 as amended by Dodd-Frank s. 1473(k), which does not appear to provide authority to impose fines against a state.

<sup>49</sup> Code of Mississippi State Regulations 30-1502-3.2, at [http://www.mrec.state.ms.us/mab/license\\_law.html](http://www.mrec.state.ms.us/mab/license_law.html) (accessed 3/21/2013).

<sup>50</sup> Code of Mississippi State Regulations 30-1502-3.3, at [http://www.mrec.state.ms.us/mab/license\\_law.html](http://www.mrec.state.ms.us/mab/license_law.html) (accessed 3/21/2013).

<sup>51</sup> Appraisal Subcommittee Policy Statements, Statement 2, page 8, on file with BPR subcommittee.

<sup>52</sup> The Real Property Appraiser Qualification Criteria, page 55, on file with BPR subcommittee.

a “supervisory appraiser” as a licensed appraiser, a certified residential appraiser, or a certified general appraiser who is responsible for the direct supervision of one or more trainee appraisers.<sup>53</sup>

### Effect of Proposed Changes

The bill amends s. 475.611(1)(u), F.S., to remove the term “licensed appraiser” from the definition of “supervisory appraiser.” Instead, the term “supervisory appraiser” only includes the various forms of “certified appraisers.” This conforms the definition of “supervisory appraiser” to existing federal policy.

Similarly, the bill amends ss. 475.612(1) and 475.6221(1), F.S., to eliminate the reference to “licensed” appraisers from the supervisory requirements for trainee real estate appraisers. This conforms the supervisory requirements for trainee real estate appraisers to existing federal policy.

### References to Current AQB Qualification Criteria

#### Current Situation

Section 475.615, F.S., sets forth the qualifications for registration or certification of appraisers, as outlined by the Real Property Appraiser Qualification Criteria (Qualification Criteria) of the AQB. Specifically, under s. 475.615(2), F.S., the FREAB is authorized to waive or otherwise modify any education, experience, or examination requirements established in the section in order to conform to the requirements established by the AQB.

The section expressly references the requirements adopted by the AQB on February 20, 2004, which is the date that a previous version of the Qualification Criteria was adopted.<sup>54</sup> A new version of the Qualification Criteria was adopted on December 9, 2011, which will go into effect on January 1, 2015.

#### Effect of Proposed Changes

The bill amends s. 475.615(2), F.S., to change the reference of the date of the Qualification Criteria version from February 20, 2004 to December 9, 2011. This provision has an effective date of January 1, 2014 in order to allow time for rule adoption by the Department.

### Qualification for Registration or Certification of Appraisers

#### Current Situation

As discussed above, s. 475.615, F.S., sets forth the qualifications for registration or certification of appraisers, as outlined by the Qualification Criteria of the AQB. Generally, the statute requires that an appraiser applicant must be competent to handle appraisals “with safety to those with whom they may undertake a relationship of trust and confidence and the general public.” Denial of a prior registration or certification request, or revocation of suspension of a prior registration or certification in any jurisdiction is a relevant factor in determining competency to practice in Florida. If any of these disciplinary actions have occurred, the applicant is deemed to not be qualified; however, the applicant will still be deemed to be qualified if, because of time and subsequent good conduct and reputation, or by any other reason that is deemed to be sufficient, the FREAB believes that the interest of the public is not likely to be endangered by the granting of the registration or certification.<sup>55</sup>

On December 9, 2011, the AQB adopted a new version of its Qualification Criteria, to require background checks and to disqualify applicants who have certain background issues.<sup>56</sup> Some

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<sup>53</sup> Section 475.611(1)(u), F. S.

<sup>54</sup> Section 475.615(2), F. S.

<sup>55</sup> Section 475.615(6), F. S.

<sup>56</sup> The new Qualification Criteria, including the new disqualification provisions, will go into effect on January 1, 2015.

applicants may qualify with certain offenses and discipline after five years, while certain criminal offenses render the applicant permanently disqualified.<sup>57</sup>

### Effect of Proposed Changes

The bill amends s. 475.615(6), F.S., to eliminate the ability of the FREAB to consider the subsequent passage of time and good behavior when considering the license application of an applicant who has prior discipline and criminal history. Instead, the bill requires the FREAB to adopt the specific AQB Qualification Criteria requirements regarding applicant disqualification which were adopted on December 9, 2011, as discussed above. This provision has an effective date of January 1, 2014 in order to allow time for rule adoption by the Department.

### Multiple or Additional Brokers' Licenses

#### Current Situation

Section 475.17(1), F.S., sets forth the qualifications for practice for a real estate broker. Specifically, an applicant must:

- Be a natural person of at least eighteen years of age;
- Hold a high school diploma or its equivalent;
- Be honest, truthful, trustworthy, of good character, and have a good reputation for fair dealing; and
- Be competent and qualified to make real estate transactions and conduct negotiations.<sup>58</sup>

In addition to the requirements provided in s. 475.17(1)(a), F.S., the applicant must also hold an active real estate sales associate license for a specified period of time,<sup>59</sup> complete a pre-licensing course,<sup>60</sup> pass the Florida Real Estate Brokers' Examination,<sup>61</sup> and participate in post-licensure education.<sup>62</sup>

In addition to a primary brokers' license, a licensed broker may also be issued additional brokers' licenses whenever it is clearly shown that the request for additional licenses is necessary to the conduct of the real estate brokerage business, and that the additional licenses will not be used in a manner that is likely to be prejudicial.<sup>63</sup>

Relative to licensee complaints, discipline is only imposed against the license that is specifically charged in the administrative complaint.<sup>64</sup> Consequently, in order to impose discipline on any additional brokers' licenses, the complaining party must have charged each additional license number in the administrative complaint. Currently, it is possible for a broker to obtain an additional license during the enforcement process in order to avoid having disciplinary actions attached to that additional license.<sup>65</sup>

### Effect of Proposed Changes

The bill amends s. 475.215(1), F.S., to provide that an additional license may not be granted if that license will be used in a manner that is likely to be harmful to any person. The limitation that an additional license may not be granted if that license will be used in a manner that is likely to be

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<sup>57</sup> The Real Property Appraiser Qualification Criteria, page 53-54, on file with BPR subcommittee.

<sup>58</sup> Section 475.17(1)(a), F. S.

<sup>59</sup> Section 475.17(2)(b), F. S.

<sup>60</sup> Section 475.17(2)(a), F. S.

<sup>61</sup> Section 475.175, F. S.

<sup>62</sup> Section 475.17(3)(a), F. S.

<sup>63</sup> Section 475.215(1), F. S.

<sup>64</sup> Department of Business and Professional Regulation 2013 Legislative Analysis, page 3, dated February 18, 2013, on file with BPR subcommittee.

<sup>65</sup> Id.

prejudicial remains intact. The bill also allows the Florida Real Estate Commission (FREC) to deny an additional license request pursuant to s. 475.17(1)(a), F.S., which provides qualification requirements for brokers, as discussed above. Finally, the bill provides that a final order of discipline against the brokers' primary license applies to both the primary license and to any multiple licenses held by that broker at the time the final order becomes effective.

**B. SECTION DIRECTORY:**

**Section 1:** amends s. 475.215(1), F.S., to provide that an additional license may not be issued if that license will be used in a manner that is likely to be harmful to any person; that the FREC may deny an additional license request pursuant to s. 475.17(1)(a), F.S.; and that a final order of discipline against the primary brokers' license applies to both the primary license and to any multiple licenses held by that broker at the time the final order becomes effective.

**Section 2:** amends s. 475.611(1)(u), F.S., to remove the term "licensed appraiser" from the definition of "supervisory appraiser."

**Section 3:** amends s. 475.612(1), F.S., to remove the term "licensed appraiser" from the supervisory requirements for trainee real estate appraisers.

**Section 4:** amends s. 475.615(2), F.S., to update the reference to the date of the adoption of the most recent Qualification Criteria by the AQB; and amends s. 475.615(6), F.S., to eliminate the ability of the FREAB to consider the subsequent passage of time and good behavior when considering the license application of an applicant who has prior discipline and criminal history, and instead requires the applicant to meet the conditions set forth by the AQB.

**Section 5:** amends s. 475.6221(1), F.S., to eliminate the reference to "licensed" appraisers from the supervisory requirements for trainee real estate appraisers.

**Section 6:** provides that the bill shall take effect upon becoming law, except as otherwise expressly provided.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:  
None.

2. Expenditures:  
None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:  
None.

2. Expenditures:  
None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of sales tax shared with counties or municipalities.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

The bill eliminates the ability of the FREAB to consider the subsequent passage of time and good behavior when considering the license application of an applicant who has prior discipline and criminal history. Instead, it requires the FREAB to adopt specific AQB Qualification Criteria requirements, by rule. As a result, agency rulemaking is required in order to adopt the new Qualification Criteria.

The bill changes the reference to the date of the AQB Qualification Criteria version from February 20, 2004 to December 9, 2011. As a result, the provision will require agency rulemaking to adopt the new Qualification Criteria.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 27, 2013, the Rulemaking Oversight & Repeal Subcommittee amended CS/HB 667 by deleting section 1, thus preserving the full range of hearing rights and protections provided by the APA in disciplinary hearings for registered appraisers (described above in this analysis). This analysis is drawn to the committee substitute for the bill.



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

Section 1. Subsection (1) of section 475.215, Florida Statutes, is amended to read:

475.215 Multiple licenses.—

(1) A licensed broker may be issued upon request additional licenses as a broker, but not as a sales associate or as a broker associate, whenever it is clearly shown that the requested additional licenses are necessary to the conduct of real estate brokerage business and that the additional licenses will not be used in a manner likely to be prejudicial or harmful to any person, including a licensee under this chapter. The commission may also deny a multiple license request pursuant to s. 475.17(1)(a). A final order of discipline rendered against a broker for a violation of this part or s. 455.227(1) applies to the primary license of the broker as well as any multiple licenses held by that broker at the time the final order becomes effective.

Section 2. Paragraph (u) of subsection (1) of section 475.611, Florida Statutes, is amended to read:

475.611 Definitions.—

(1) As used in this part, the term:

(u) "Supervisory appraiser" means ~~a licensed appraiser,~~ a certified residential appraiser, or a certified general appraiser responsible for the direct supervision of one or more registered trainee appraisers and fully responsible for appraisals and appraisal reports prepared by those registered



57 | trainee appraisers. The board, by rule, shall determine the  
 58 | responsibilities of a supervisory appraiser, the geographic  
 59 | proximity required, the minimum qualifications and standards  
 60 | required of a ~~licensed or~~ certified appraiser before she or he  
 61 | may act in the capacity of a supervisory appraiser, and the  
 62 | maximum number of registered trainee appraisers to be supervised  
 63 | by an individual supervisory appraiser.

64 |       Section 3. Subsection (1) of section 475.612, Florida  
 65 | Statutes, is amended to read:

66 |           475.612 Certification, licensure, or registration  
 67 | required.—

68 |       (1) A person may not use the title "certified real estate  
 69 | appraiser," "licensed real estate appraiser," or "registered  
 70 | trainee real estate appraiser," or any abbreviation or words to  
 71 | that effect, or issue an appraisal report, unless such person is  
 72 | certified, licensed, or registered by the department under this  
 73 | part. However, the work upon which an appraisal report is based  
 74 | may be performed by a person who is not a certified or licensed  
 75 | appraiser or registered trainee appraiser if the work is  
 76 | supervised and approved, and the report is signed, by a  
 77 | certified or licensed appraiser who has full responsibility for  
 78 | all requirements of the report and valuation service. Only a  
 79 | certified or licensed appraiser may issue an appraisal report  
 80 | and receive direct compensation for providing valuation services  
 81 | for the appraisal report. A registered trainee appraiser may  
 82 | only receive compensation for appraisal services from her or his  
 83 | authorized certified ~~or licensed~~ appraiser.

84 |       Section 4. Effective January 1, 2014, subsections (2) and

85 (6) of section 475.615, Florida Statutes, are amended to read:

86 475.615 Qualifications for registration or certification.-

87 (2) The board is authorized to waive or modify any  
 88 education, experience, or examination requirements established  
 89 in this part in order to conform with any such requirements  
 90 established by the Appraiser ~~Appraisal~~ Qualifications Board of  
 91 the Appraisal Foundation or any successor body recognized by  
 92 federal law, including any requirements adopted on December 9,  
 93 2011 ~~February 20, 2004~~. The board shall implement this section  
 94 by rule.

95 (6) All applicants must be competent and qualified to make  
 96 real estate appraisals with safety to those with whom they may  
 97 undertake a relationship of trust and confidence and the general  
 98 public. If any applicant has been denied registration,  
 99 licensure, or certification, or has been disbarred, or the  
 100 applicant's registration, license, or certificate to practice or  
 101 conduct any regulated profession, business, or vocation has been  
 102 revoked or suspended by this or any other state, any nation, or  
 103 any possession or district of the United States, or any court or  
 104 lawful agency thereof, because of any conduct or practices which  
 105 would have warranted a like result under this part, or if the  
 106 applicant has been guilty of conduct or practices in this state  
 107 or elsewhere which would have been grounds for disciplining her  
 108 or his registration, license, or certification under this part  
 109 had the applicant then been a registered trainee appraiser or a  
 110 licensed or certified appraiser, the applicant is ~~shall be~~  
 111 deemed not to be qualified unless the applicant has met the  
 112 conditions adopted by the Appraiser Qualifications Board of the

113 Appraisal Foundation on December 9, 2011, as prescribed by rule  
 114 of the board and, ~~because of lapse of time and subsequent good~~  
 115 ~~conduct and reputation, or other reason deemed sufficient,~~ it  
 116 appears to the board that the interest of the public is not  
 117 likely to be endangered by the granting of registration or  
 118 certification.

119 Section 5. Subsection (1) of section 475.6221, Florida  
 120 Statutes, is amended to read:

121 475.6221 Employment of and by registered trainee real  
 122 estate appraisers.—

123 (1) A registered trainee real estate appraiser must  
 124 perform appraisal services under the direct supervision of a  
 125 ~~licensed or~~ certified appraiser who is designated as the primary  
 126 supervisory appraiser. The primary supervisory appraiser may  
 127 also designate additional ~~licensed or~~ certified appraisers as  
 128 secondary supervisory appraisers. A secondary supervisory  
 129 appraiser must be affiliated with the same firm or business as  
 130 the primary supervisory appraiser and the primary or secondary  
 131 supervisory appraiser must have the same business address as the  
 132 registered trainee real estate appraiser. The primary  
 133 supervisory appraiser must notify the Division of Real Estate of  
 134 the name and address of any primary and secondary supervisory  
 135 appraiser for whom the registered trainee will perform appraisal  
 136 services, and must also notify the division within 10 days after  
 137 terminating such relationship. Termination of the relationship  
 138 with a primary supervisory appraiser automatically terminates  
 139 the relationship with the secondary supervisory appraiser.

140 Section 6. Except as otherwise expressly provided in this

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2013

141 | act, this act shall take effect upon becoming a law.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 737 Swimming Pool and Spa Contracting  
**SPONSOR(S):** Business & Professional Regulation Subcommittee; Ahern and others  
**TIED BILLS:** IDEN./SIM. BILLS: CS/SB 156

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professional Regulation Subcommittee	12 Y, 0 N, As CS	Collins	Luczynski
2) Regulatory Affairs Committee		Collins <i>JRC</i>	Hamon <i>K.W.H.</i>

### SUMMARY ANALYSIS

In Florida, the Construction Industry Licensing Board within the Department of Business and Professional Regulation oversees the licensure of pool and spa contractors, including:

- Commercial pool/spa contractors;
- Residential pool/spa contractors; and
- Swimming pool/spa servicing contractors.

An applicant for a swimming pool/spa servicing contractors' license is qualified to sit for the state certification examination if he or she possesses one year of proven experience in swimming pool/spa service work, and completes 60 hours of course work, as approved by the CILB.

The bill amends s. 489.111(2)(c)6.d., F.S., to reduce the experience requirements needed for an applicant to obtain a swimming pool/spa servicing contractors' license. The bill specifically provides that an applicant for a swimming pool/spa servicing contractors' license is qualified to sit for the state certification examination if he or she has satisfactorily completed 60 hours of instruction and 20 hours of in-field, hands-on instruction that is related to the scope of work covered by the license.

The bill would allow individuals who only offer cleaning, maintenance, or water treatment of pools, spas, and hot tubs to seek licensure without ceasing their existing business, in order to obtain experience working for a licensed pool/spa contractor.

The bill has an indeterminate, but likely insignificant fiscal impact. See fiscal comments.

The bill has an effective date of October 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

In Florida, the practice of pool contracting is regulated by the Construction Industry Licensing Board (hereinafter "CILB") within the Department of Business and Professional Regulation (hereinafter "Department"). Mandatory licensure is required for:

- Commercial pool/spa contractors;
- Residential pool/spa contractors; and
- Swimming pool/spa servicing contractors.<sup>1</sup>

As such, contractors must maintain one of these licenses to contract for the installation, repair, or servicing of commercial or residential pools, spas, and hot tubs; however, each of these categories of licensure specifically exempts persons who offer only cleaning, maintenance, and water treatment of pools, spas, and hot tubs from mandatory licensing, so long as the work contracted does not affect the structural integrity of the pool, spa, or hot tub or require installation, modification, or replacement of its permanently-attached equipment. This exemption was added by the legislature in 1996.<sup>2</sup>

While the Department does not currently require licensure for persons offering only pool cleaning services, the Department of Health (hereinafter "DOH") has responsibility under s. 514.075, F.S., to certify public pool service technicians. Public pool service technicians must demonstrate knowledge of pool maintenance and water treatment by passing a 16-hour course approved by DOH. Persons holding a current commercial pool/spa contractor, residential pool/spa contractor, and/or swimming pool/spa servicing contractor license from the Department are exempt from certification under s. 514.075, F.S. DOH reported that approximately 14,000 people had been certified by their largest approved trainer during a 5-year period.<sup>3</sup>

Pursuant to current law, an applicant for a commercial or residential pool/spa contractors' license is eligible to sit for the state certification examination if he or she has at least four years of experience in the required licensure category.<sup>4</sup> Applicants may substitute up to three years of college credits in lieu of years of experience so long as the applicant has at least one year of experience as a foreman in the license category sought.<sup>5</sup>

Similarly, an applicant for a swimming pool/spa servicing contractors' license is qualified to sit for the state certification examination if he or she possesses one year of proven experience in swimming pool/spa service work, and has completed 60 hours of course work, as approved by the CILB.<sup>6</sup>

Applicants for all three categories must also establish that they are at least 18 years of age of good moral character.<sup>7</sup>

##### Effect of Proposed Changes

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<sup>1</sup> Sections 489.105(3)(j), 489.105(3)(k), and 489.105(3)(l), F.S.

<sup>2</sup> Ch. 96-365 (Laws of Fla).

<sup>3</sup> Department of Business and Professional Regulation Legislative Analysis, page 2, dated March 5, 2013, on file with subcommittee.

<sup>4</sup> Section 489.111(2)(c)2., F.S.

<sup>5</sup> Id.

<sup>6</sup> Section 489.111(2)(c)6.d., F.S.

<sup>7</sup> Sections 489.111(2)(a) and 489.111(2)(b), F.S.

The bill amends s. 489.111(2)(c)6.d., F.S., to reduce the experience requirements needed for an applicant to obtain a swimming pool/spa servicing contractors' license.

The bill reduces the experience requirements from one year of verifiable work experience in swimming pool/spa service work to 20 hours of in-field, hands-on instruction. As such, an applicant for a swimming pool/spa servicing contractors' license is qualified to sit for the state certification examination if he or she has satisfactorily completed 60 hours of course work instruction and 20 hours of in-field, hands-on instruction that is related to the scope of work covered by the license.

**B. SECTION DIRECTORY:**

**Section 1:** amends s. 489.111(2)(c)6.d., F.S., to reduce the experience requirements needed for an applicant to obtain a swimming pool/spa servicing contractors' license.

**Section 2:** provides an effective date of October 1, 2014.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

There may be an increase in the number of applicants who apply to the Department to be licensed as swimming pool/spa servicing contractors. The Department has indicated that this increase should have a minor negative fiscal impact, and can be handled with existing resources.<sup>8</sup>

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill will make it less burdensome for potential swimming pool/spa servicing contractors to get their contractors' license.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

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<sup>8</sup> Email with staff at the Department of Business and Professional Regulation, dated March 25, 2013, on file with subcommittee.



1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of sales tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides that an applicant for a swimming pool/spa servicing contractors' license is qualified to sit for the state certification examination if he or she has satisfactorily completed 60 hours of instruction and 20 hours of in-field, hands-on instruction that is related to the scope of work covered by the license, as approved by the CILB.

The Department would need to promulgate rules relating to the requirements for "in-field, hands-on training." Although the bill itself does not contain specific rulemaking authority, the Department has indicated that it believes that it has sufficient rulemaking authority under current statutory provisions in order to adopt adequate rules.<sup>9</sup>

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 27, 2013, the Business & Professional Regulation Subcommittee considered a proposed committee substitute and reported the proposed committee substitute favorably as a committee substitute.

The proposed committee substitute reduces the experience requirements needed for an applicant to obtain a swimming pool/spa servicing contractors' license, from 1 year to 20 hours of in-field, hands on instruction that is related to the scope of work covered by the license.

The staff analysis is drafted to reflect the committee substitute.

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<sup>9</sup> Department of Business and Professional Regulation Legislative Analysis Form, page 7, dated March 5, 2013, on file with subcommittee.

1                                   A bill to be entitled  
 2           An act relating to swimming pool and spa contracting;  
 3           amending s. 489.111, F.S.; revising eligibility  
 4           requirements for taking the swimming pool/spa  
 5           servicing contractor's licensure examination;  
 6           providing an effective date.

7  
 8   Be It Enacted by the Legislature of the State of Florida:

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 10           Section 1. Paragraph (c) of subsection (2) of section  
 11   489.111, Florida Statutes, is amended to read:

12           489.111 Licensure by examination.—

13           (2) A person shall be eligible for licensure by  
 14   examination if the person:

15           (c) Meets eligibility requirements according to one of the  
 16   following criteria:

17           1. Has received a baccalaureate degree from an accredited  
 18   4-year college in the appropriate field of engineering,  
 19   architecture, or building construction and has 1 year of proven  
 20   experience in the category in which the person seeks to qualify.  
 21   For the purpose of this part, a minimum of 2,000 person-hours  
 22   shall be used in determining full-time equivalency.

23           2. Has a total of at least 4 years of active experience as  
 24   a worker who has learned the trade by serving an apprenticeship  
 25   as a skilled worker who is able to command the rate of a  
 26   mechanic in the particular trade or as a foreman who is in  
 27   charge of a group of workers and usually is responsible to a  
 28   superintendent or a contractor or his or her equivalent,

29 provided, however, that at least 1 year of active experience  
 30 shall be as a foreman.

31 3. Has a combination of not less than 1 year of experience  
 32 as a foreman and not less than 3 years of credits for any  
 33 accredited college-level courses; has a combination of not less  
 34 than 1 year of experience as a skilled worker, 1 year of  
 35 experience as a foreman, and not less than 2 years of credits  
 36 for any accredited college-level courses; or has a combination  
 37 of not less than 2 years of experience as a skilled worker, 1  
 38 year of experience as a foreman, and not less than 1 year of  
 39 credits for any accredited college-level courses. All junior  
 40 college or community college-level courses shall be considered  
 41 accredited college-level courses.

42 4.a. An active certified residential contractor is  
 43 eligible to take the building contractors' examination if he or  
 44 she possesses a minimum of 3 years of proven experience in the  
 45 classification in which he or she is certified.

46 b. An active certified residential contractor is eligible  
 47 to take the general contractors' examination if he or she  
 48 possesses a minimum of 4 years of proven experience in the  
 49 classification in which he or she is certified.

50 c. An active certified building contractor is eligible to  
 51 take the general contractors' examination if he or she possesses  
 52 a minimum of 4 years of proven experience in the classification  
 53 in which he or she is certified.

54 5.a. An active certified air-conditioning Class C  
 55 contractor is eligible to take the air-conditioning Class B  
 56 contractors' examination if he or she possesses a minimum of 3

57 | years of proven experience in the classification in which he or  
 58 | she is certified.

59 |       b. An active certified air-conditioning Class C contractor  
 60 | is eligible to take the air-conditioning Class A contractors'  
 61 | examination if he or she possesses a minimum of 4 years of  
 62 | proven experience in the classification in which he or she is  
 63 | certified.

64 |       c. An active certified air-conditioning Class B contractor  
 65 | is eligible to take the air-conditioning Class A contractors'  
 66 | examination if he or she possesses a minimum of 1 year of proven  
 67 | experience in the classification in which he or she is  
 68 | certified.

69 |       6.a. An active certified swimming pool servicing  
 70 | contractor is eligible to take the residential swimming pool  
 71 | contractors' examination if he or she possesses a minimum of 3  
 72 | years of proven experience in the classification in which he or  
 73 | she is certified.

74 |       b. An active certified swimming pool servicing contractor  
 75 | is eligible to take the swimming pool commercial contractors'  
 76 | examination if he or she possesses a minimum of 4 years of  
 77 | proven experience in the classification in which he or she is  
 78 | certified.

79 |       c. An active certified residential swimming pool  
 80 | contractor is eligible to take the commercial swimming pool  
 81 | contractors' examination if he or she possesses a minimum of 1  
 82 | year of proven experience in the classification in which he or  
 83 | she is certified.

84 |       d. An applicant is eligible to take the swimming pool/spa

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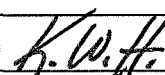
85 servicing contractors' examination if he or she has  
86 satisfactorily completed 60 hours of instruction in courses and  
87 20 hours of in-field, hands-on instruction related to the scope  
88 of work covered by that license and approved by the Construction  
89 Industry Licensing Board by rule ~~and has at least 1 year of~~  
90 ~~proven experience related to the scope of work of such a~~  
91 ~~contractor.~~

92 Section 2. This act shall take effect October 1, 2014.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 819 Florida Commission on Hurricane Loss Projection Methodology  
**SPONSOR(S):** Government Operations Appropriations Subcommittee; Insurance & Banking Subcommittee; Raschein  
**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	11 Y, 0 N, As CS	Cooper	Cooper
2) Government Operations Appropriations Subcommittee	10 Y, 0 N, As CS	Keith	Topp
3) Regulatory Affairs Committee		Cooper 	Hamon 

### SUMMARY ANALYSIS

In 1995 the Legislature established the Florida Commission on Hurricane Loss Projection Methodology (Commission) to serve as an independent body within the State Board of Administration (SBA). The Commission adopts findings on the accuracy or reliability of the methods, standards, principles, models and other means used to project hurricane losses. Individual insurers are required to use the Commission's findings in order to support or justify a rate filing.

The Commission is comprised of 11 members. Members of the Commission include experts in insurance finance, statistics, computer system design, and meteorology who are full-time faculty members in the State University System and appointed by the Chief Financial Officer (CFO), an actuary member from the Florida Hurricane Catastrophe Fund's (FHCF) Advisory Council, an actuary employed with a property and casualty insurer appointed by the CFO, an actuary employed by the Office of Insurance Regulation, the Executive Director of Citizens Property Insurance Corporation, the senior employee responsible for FHCF operations, the Insurance Consumer Advocate, and the Director of Emergency Management. The Commission sets standards for loss projection methodology and examines the methods employed in proprietary hurricane loss models used by private insurers in setting rates to determine whether they meet the Commission's standards.

Only hurricane loss models or methods the Commission deems accurate or reliable can be used by insurers in rate filings to estimate hurricane losses used to set property insurance rates. Additionally, insurers have 60 days after the Commission finds a model accurate and reliable to use the model to predict the insurer's probable maximum loss levels in a rate filing.

The bill adds another member to the Commission, who will be appointed by the Governor. The member is to be a licensed professional structural engineer with expertise in wind mitigation techniques.

The bill will have an insignificant fiscal impact to the SBA due to travel and per diem expenditures for the additional member being added by the bill. The bill will not have a fiscal impact on the private sector.

The effective date of the bill is July 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

In 1995 the Legislature established the Florida Commission on Hurricane Loss Projection Methodology (Commission) to serve as an independent body within the State Board of Administration.<sup>1</sup> The Commission adopts findings on the accuracy or reliability of the methods, standards, principles, models and other means used to project hurricane losses. Individual insurers are required to use the Commission's findings in order to support or justify a rate filing.

The Commission is comprised of 11 members. Members of the Commission include experts in insurance finance, statistics, computer system design, and meteorology who are full-time faculty members in the State University System and appointed by the CFO, an actuary member from the FHCF Advisory Council, an actuary employed with a property and casualty insurer appointed by the CFO, an actuary employed by OIR, the Executive Director of Citizens, the senior employee responsible for FHCF operations, the Insurance Consumer Advocate, and the Director of Emergency Management. The Commission sets standards for loss projection methodology and examines the methods employed in proprietary hurricane loss models used by private insurers in setting rates to determine whether they meet the Commission's standards.

Only hurricane loss models or methods the Commission deems accurate or reliable can be used by insurers in rate filings to estimate hurricane losses used to set property insurance rates. Additionally, insurers have 60 days after the Commission finds a model accurate and reliable to use the model to predict the insurer's probable maximum loss levels in a rate filing.

The bill adds another member to the Commission, who will be appointed by the Governor. The member is to be a licensed professional structural engineer with expertise in wind mitigation techniques. Structural engineering is a branch of civil engineering dealing primarily with the design and construction of structures.<sup>2</sup> Engineers in Florida are licensed and regulated by the Board of Professional Engineers created within the Department of Business and Professional Regulation.<sup>3</sup> Wind mitigation specifically targets the structural and nonstructural aspects that prevent or lessen damage caused by high winds that occur with storms.<sup>4</sup>

#### B. SECTION DIRECTORY:

**Section 1.** Provides legislative intent.

**Sections 2.** Amends s. 627.0628(2)(b), F.S., relating to the membership of the Commission.

**Section 3.** Provides an effective date of July 1, 2013.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

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<sup>1</sup> The Commission is created in s. 627.0628, F.S. This statute also provides the composition and duties of the Commission.

<sup>2</sup> <http://www.merriam-webster.com/dictionary/structural%20engineering> (last viewed on March 17, 2013).

<sup>3</sup> Chapter 471, F.S.

<sup>4</sup> Booklet entitled "Florida's Foundation, Make Mitigation Happen," Florida's Division of Emergency Management, p.2, available at [www.floridadisaster.org/mitigation/.../Wind%20Mitigation%20Book1](http://www.floridadisaster.org/mitigation/.../Wind%20Mitigation%20Book1) (last viewed on March 17, 2013).



1. Revenues:

None.

2. Expenditures:

See Fiscal Comments

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill will have an insignificant fiscal impact to the SBA due to travel and per diem expenses for the additional member being added by the bill. The State Board of Administration is required to cover the operating expenses of the Commission as a cost of administration of the FHCF. Members of the Commission serve without compensation, but are reimbursed for per diem and travel expenses pursuant to s. 112.061, F.S. Thus, there will be an increase in those expenditures to reimburse the additional member to the Commission.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not grant nor require additional rule-making.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

The Insurance & Banking Subcommittee on March 19, 2013, considered and adopted a proposed committee substitute for HB 819.

The difference between the bill as filed and the committee substitute is the original bill added two members to the Commission, changed their review and approval of models to an annual basis, and required the Commission to undertake a study of the effects of wind versus water on projections of wind loss from hurricanes. The committee substitute only adds one member to the commission and does not include the other changes.

On March 27, 2013, the Government Operations Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Specifies that the Governor will appoint one new member who must be a licensed professional structural engineer with expertise in wind mitigation techniques.

This analysis is drafted to the committee substitute as passed by the Government Operations Appropriations Subcommittee.

1                                   A bill to be entitled  
 2           An act relating to the Florida Commission on Hurricane  
 3           Loss Projection Methodology; providing legislative  
 4           intent; amending s. 627.0628, F.S.; revising  
 5           membership of the commission; providing an effective  
 6           date.

7  
 8   Be It Enacted by the Legislature of the State of Florida:

9  
 10           Section 1. The Legislature intends to enhance the  
 11 expertise immediately available to the commission by increasing  
 12 the membership of the Florida Commission on Hurricane Loss  
 13 Projection Methodology to provide for the appointment of an  
 14 additional member with special qualifications or attributes.

15           Section 2. Subsection (2) of section 627.0628, Florida  
 16 Statutes, is amended to read:

17           627.0628 Florida Commission on Hurricane Loss Projection  
 18 Methodology; public records exemption; public meetings  
 19 exemption.-

20           (2) COMMISSION CREATED.-

21           (a) There is created the Florida Commission on Hurricane  
 22 Loss Projection Methodology, which is assigned to the State  
 23 Board of Administration. For the purposes of this section, the  
 24 term "commission" means the Florida Commission on Hurricane Loss  
 25 Projection Methodology. The commission shall be administratively  
 26 housed within the State Board of Administration, but it shall  
 27 independently exercise the powers and duties specified in this  
 28 section.

29 (b) The commission shall consist of the following 12 ~~11~~  
 30 members:

- 31 1. The insurance consumer advocate.
- 32 2. The senior employee of the State Board of  
 33 Administration responsible for operations of the Florida  
 34 Hurricane Catastrophe Fund.
- 35 3. The Executive Director of the Citizens Property  
 36 Insurance Corporation.
- 37 4. The Director of the Division of Emergency Management.
- 38 5. The actuary member of the Florida Hurricane Catastrophe  
 39 Fund Advisory Council.
- 40 6. An employee of the office who is an actuary responsible  
 41 for property insurance rate filings and who is appointed by the  
 42 director of the office.
- 43 7. Five members appointed by the Chief Financial Officer,  
 44 as follows:
  - 45 a. An actuary who is employed full time by a property and  
 46 casualty insurer that was responsible for at least 1 percent of  
 47 the aggregate statewide direct written premium for homeowner's  
 48 insurance in the calendar year preceding the member's  
 49 appointment to the commission.
  - 50 b. An expert in insurance finance who is a full-time  
 51 member of the faculty of the State University System and who has  
 52 a background in actuarial science.
  - 53 c. An expert in statistics who is a full-time member of  
 54 the faculty of the State University System and who has a  
 55 background in insurance.
  - 56 d. An expert in computer system design who is a full-time

57 member of the faculty of the State University System.

58 e. An expert in meteorology who is a full-time member of  
 59 the faculty of the State University System and who specializes  
 60 in hurricanes.

61 8. One member appointed by the Governor, who is a licensed  
 62 professional structural engineer with expertise in wind  
 63 mitigation techniques.

64 (c) Members designated under subparagraphs (b)1.-5. shall  
 65 serve on the commission as long as they maintain the respective  
 66 offices designated in subparagraphs (b)1.-5. The member  
 67 appointed by the director of the office under subparagraph (b)6.  
 68 shall serve on the commission until the end of the term of  
 69 office of the director who appointed him or her, unless removed  
 70 earlier by the director for cause. Members appointed by the  
 71 Chief Financial Officer under subparagraph (b)7. shall serve on  
 72 the commission until the end of the term of office of the Chief  
 73 Financial Officer who appointed them, unless earlier removed by  
 74 the Chief Financial Officer for cause. Vacancies on the  
 75 commission shall be filled in the same manner as the original  
 76 appointment.

77 (d) The State Board of Administration shall annually  
 78 appoint one of the members of the commission to serve as chair.

79 (e) Members of the commission shall serve without  
 80 compensation, but shall be reimbursed for per diem and travel  
 81 expenses pursuant to s. 112.061.

82 (f) The State Board of Administration shall, as a cost of  
 83 administration of the Florida Hurricane Catastrophe Fund,  
 84 provide for travel, expenses, and staff support for the

85 | commission.

86 |       (g) There shall be no liability on the part of, and no  
87 | cause of action of any nature shall arise against, any member of  
88 | the commission, any member of the State Board of Administration,  
89 | or any employee of the State Board of Administration for any  
90 | action taken in the performance of their duties under this  
91 | section. In addition, the commission may, in writing, waive any  
92 | potential cause of action for negligence of a consultant,  
93 | contractor, or contract employee engaged to assist the  
94 | commission.

95 |       Section 3. This act shall take effect July 1, 2013.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 883 Fire Safety and Prevention

**SPONSOR(S):** Government Operations Appropriations Subcommittee; Insurance & Banking Subcommittee; Boyd

**TIED BILLS:** IDEN./SIM. BILLS: CS/SB 1410

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	11 Y, 0 N, As CS	Vanlandingham	Cooper
2) Government Operations Appropriations Subcommittee	10 Y, 0 N, As CS	Keith	Topp
3) Regulatory Affairs Committee		Vanlandingham	Hamon <i>K.W.H.</i>

### SUMMARY ANALYSIS

An internal regulatory review by Florida's Division of the State Fire Marshal (SFM), located within the Department of Financial Services (DFS), has determined that numerous provisions of the statutes currently governing SFM and its regulatory authority are redundant, obsolete, difficult to administer, or complicated for the agency or public to interpret. DFS has put forward this proposal to rewrite and reorganize chapter 633, F.S.

In addition to deleting numerous provisions that are outdated or redundant, the bill makes several substantive policy changes. Most significant among these are more stringent requirements regarding criminal histories for firefighter certification. The bill effectively bars applicants with a prior felony conviction, a misdemeanor relating to perjury or false statements, or a dishonorable discharge, from ever gaining certification as a firefighter. These standards are enforced through expanded reporting requirements and better tracking of felony convictions.

DFS will compare records of convictions from the Comprehensive Case Information System of the Florida Association of Court Clerks and Comptrollers against DFS's licensing database. If the agency becomes aware of any matches, SFM will open a case to investigate the licensee. The bill provides new authority allowing the agency to require submission of fingerprints from licensees whom the agency suspects, after investigation, of being convicted of a felony.

The bill also extends the certification period for firefighters and fire safety inspectors from three to four years, and it gives firefighters new options for retaining their certifications. The bill grants SFM authority to establish new certificates for specialized firefighting instruction, and it allows the agency to contract with third parties to administer examinations.

Among numerous other provisions, the bill:

- expands statutes criminalizing impersonation of firefighters and tampering with fire protection systems;
- amends protocols addressing firefighter workplaces with a high frequency of employee injuries;
- requires that new boilers must meet the most current mandatory boiler code before they are installed;
- mandates that state-owned or leased buildings utilize the U.S. National Grid Coordinate System;
- reduces fees for downgrading fire equipment dealer's license to a lesser category;
- creates a system for out-of-state fire equipment dealers to obtain independent inspections; and
- requires outdoor fireworks displays to comply with the current Florida Fire Prevention Code.

The bill will have an insignificant positive fiscal impact on state government expenditures. In addition, the bill may have an insignificant negative impact on revenues to the Insurance Regulatory Trust Fund (IRTF) based on the proposed new option to downgrade Fire Equipment Dealer Licenses.

The bill takes effect July 1, 2013.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0883d.RAC.DOCX

DATE: 4/5/2013



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background on Division of State Fire Marshal**

Florida's Division of State Fire Marshal (SFM), located within the Department of Financial Services (DFS), is a state agency whose primary responsibility is to minimize the loss of life and property due to fire and to protect the public from threats of fire, arson, and other natural or man-made disasters and hazards. SFM is organized into four bureaus:

- The Bureau of Fire and Arson Investigations is the law enforcement branch of the division, which conducts fire, arson, and explosives investigations as well as investigating other associated crimes, such as insurance fraud and homicide.
- The Bureau of Fire Prevention inspects state-owned and state-leased buildings and develops the statewide Florida Fire Prevention Code. The bureau also evaluates new building and renovation construction plans to determine compliance with fire safety codes and licenses fire protection contractors, fireworks manufacturers and distributors, explosive storage locations, and construction mining sites. In addition, the bureau assists local governments in providing fire prevention services, and inspects boiler systems to determine compliance with state codes.
- The Bureau of Fire Standards and Training provides state certification and training for both paid and volunteer firefighters. The bureau operates the Florida State Fire College, regulates certified fire training centers, and develops curricula for the state fire college, training centers, and colleges that provide courses accepted for certification.
- The Bureau of Forensic Fire and Explosives Analysis provides forensic laboratory services. The laboratory supports fire, explosion, and arson investigations by providing forensic analysis of fire and explosives debris as well as forensic video analysis, photographic and digital imaging evidence.

##### **Regulatory review and proposed reorganization of Chapter 633, F.S.**

Upon taking office, Florida's Chief Financial Officer ordered each division within DFS to undergo a regulatory review. Upon a thorough examination of the statutes currently governing SFM and its regulatory authority, DFS determined that numerous provisions are redundant, obsolete, difficult for DFS to administer, or complicated for DFS or the public to interpret.

As a result of this effort and discussions with stakeholders, DFS developed this proposal to effect a comprehensive rewrite and reorganization of Chapter 633, F.S., entitled Fire Prevention and Control. The bill is intended to provide clarity for SFM as well as firefighters, fire service providers, fire equipment dealers, and contractors. However, as well as deleting numerous provisions that are outdated or redundant, the bill also makes several substantive policy changes:

- **Creates more stringent requirements regarding criminal histories for firefighter certification.** The bill effectively bars applicants with a prior felony conviction, a misdemeanor relating to perjury or false statements, or a dishonorable discharge, from ever gaining certification as a firefighter. This is a change from current policy, which allows felony convicts to become certified after four years following the expiration of his or her felony sentence. The new language reflects the same standards DFS applies for other licensees such as insurance agents, adjusters, and bail bondsmen. These standards will be enforced through expanded reporting requirements and better tracking of felony convictions.
- **Expands reporting requirements.** To ensure that new standards barring criminal backgrounds are enforced, the bill expands reporting requirements to require that licensees must notify SFM in writing of any felony conviction or plea of guilty or nolo contendere. The bill also requires fire service

providers to notify SFM of important status changes and to exercise due diligence to determine the validity of an applicant's certification application. The bill also requires licensees to notify SFM of any change of address. DFS states that these changes will improve the accuracy of SFM's database, which is impaired by current statutes that encourage but do not require important notifications regarding firefighter status changes to be reported to SFM.

- **Requires fire service personnel with suspected criminal histories to submit digital fingerprints.** DFS will compare records of convictions from the Comprehensive Case Information System of the Florida Association of Court Clerks and Comptrollers<sup>1</sup> against DFS's licensing database.<sup>2</sup> If the agency becomes aware of any matches, SFM will open a case to investigate the licensee. The bill provides new authority allowing the agency to require submission of fingerprints from licensees whom the agency suspects, after investigation, of being convicted of a felony.<sup>3</sup> DFS believes this approach will allow the agency to remove bad actors without unduly burdening fire safety personnel.
- **Extends certification period for firefighters and fire safety inspectors to four years.** Consistent with many other state certifications, the bill standardizes the certification period for firefighters and fire safety inspectors as four years, up from the current three years. The bill also gives fire safety instructors four years, instead of three, to complete an increased number of required continuing education hours.
- **Gives firefighters more options for retaining certifications.** The bill allows firefighters to retain certifications by:
  - being active as a firefighter for six months in the previous four year period;
  - maintaining a current valid fire safety instructor certificate and instructing at least 40 hours during the prior four years;
  - successfully completing a 40-hour refresher course; OR
  - retaking and passing the practical portion of the minimum standards exam within the six months before the four year certification period expires.
- **Creates new training options for fire safety personnel and allows for exams to be administered by contracting third parties.** The bill grants SFM rulemaking authority to establish additional certificates for specialized firefighting instruction such as hazardous materials and urban search and rescue. The bill also allows SFM the ability to contract with independent third parties to administer examinations, and it allows for direct payments from applicants to third party contractors conducting the exam.

The bill further provides for an electronic database to register training providers, and it requires providers to be registered to teach and have class curricula approved prior to their delivery. Such preapproval of providers and curricula ensures that students who register and attend such classes will receive credit from SFM.

- **Expands statutes criminalizing impersonation of firefighters and tampering with fire protection systems.** The bill strengthens the felony impersonation statute to cover impersonation of a volunteer firefighter and to mirror the language of statutes criminalizing impersonation of law enforcement officers. In addition, the bill expands the crime of rendering a fire extinguisher inoperable to cover disabling of fire protection systems.
- **Reduces fee for downgrading fire equipment dealer's license to a lesser category.** The bill consolidates all fees assessed by SFM into the same section, and it creates a new, reduced fee of

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<sup>1</sup> Organized under s. 28.2405, F.S.

<sup>2</sup> Pursuant to s. 893.11, F.S., clerks of court are required to provide convictions database access to state agencies at no cost and also to provide agencies with certified copies of judgments upon request.

<sup>3</sup> DFS has similar authority to fingerprint insurance licensees with suspected felony convictions under s. 626.601(5), F.S.

\$10 for fire equipment dealers seeking to downgrade their license to a lesser category. Currently, such dealers must pay \$10 to upgrade their license to a higher category, but if they wish to downgrade they must pay a higher fee of \$150 to \$250 depending on the license sought.

- **Amends protocols addressing firefighter workplaces with a high frequency of employee injuries.** The bill allows fire safety providers to collaborate with SFM on adopting a corrective action program. Current statute requires SFM to develop the corrective action plan on its own. The agency believes such plans are better implemented when the affected fire safety provider participates in drafting the corrective action program. The bill further authorizes SFM to seek new administrative remedies, including cease and desist orders and administrative fines, against dangerous workplaces that fail to comply with their corrective action programs.
- **Requires that new boilers must meet the most current mandatory boiler code before they are installed.** The bill adopts the most recent version of the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers in statute, and requires that installers of new boilers present the ASME manufacturer's data report to the chief inspector before the boiler is placed in operation. Current statute only required such a report within 90 days following installation of the boiler.
- **Mandates that state-owned or state-leased buildings be identified through the use of the U.S. National Grid Coordinate System.** The bill furthers an ongoing effort by SFM, as the coordinating agency for search and rescue under the State Comprehensive Emergency Management Plan, to adopt the U.S. National Grid in partnership with the Division of Emergency Management as the standard in Florida maps for both emergency and other operations.
- **Creates system for out-of-state fire equipment dealers to obtain independent inspections.** Current law requires SFM to inspect any fire equipment dealer that does business in Florida, and SFM now sends inspectors to dealers located outside the state, incurring significant travel costs in excess of the fee assessed by SFM for the inspection. The bill allows such dealers to obtain an independent inspection from a licensed inspector, or alternatively to pay all travel costs incurred by SFM for inspecting the facility.
- **Increases membership of the Firefighters Employment, Standards, and Training Advisory Council (FESTAC).** FESTAC is a statutory advisory council that recommends uniform standards governing the employment, health, safety, training, and educational aspects of Florida's fire and emergency services. The bill adds an additional member to be nominated by the Florida Forest Service. The bill also clarifies language and codifies current practice relating to the council's organization, duties, travel, and expenses.
- **Mandates that the Florida Fire Code Advisory Council (FCAC) meet at least semiannually.** The bill codifies current practice, providing that FCAC may review proposed changes to the Florida Fire Prevention Code and uniform fire safety standards.
- **Requires standards governing outdoor fireworks displays to comply with the current Florida Fire Prevention Code.** Current statute only requires such displays to meet 1995 standards.

#### **Administrative provisions of the bill**

The bill also contains several elements that are more administrative than substantive in nature and are intended to make SFM's governing statutes easier to administer and interpret. These provisions include:

- Adopting delivery by e-mail to licensees as adequate notification, allowing SFM to save costs relating to postage, paper, and printing.

- Eliminating the need for annual rulemakings regulating line of duty death benefits for firefighters.
- Removing references to the Florida Life Safety Code, as the Life Safety Code is considered a part of the Florida Fire Prevention Code.
- Consolidating sections regarding SFM's investigative powers and clarifying that such powers extend to investigations of explosions.
- Clarifying that the registration fee of seasonal retailers of sparklers is \$200 per location. Current law is arguably ambiguous regarding the registration fee owed by seasonal retailers of sparklers that do business in Florida.

**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 112.011, F.S., to strike disciplinary language that is moved to s. 633.304, F.S.

**Section 2:** Amends s. 112.191, F.S., to provide that existing line of duty death benefits for firefighters adjust annually based on cost of living, eliminating the need for annual rulemaking to that effect.

**Section 3:** Creates and entitles Part I of Chapter 633 "General Provisions".

**Section 4:** Renumbers s. 633.021, F.S., as s. 633.102, F.S., and adds and deletes definitions.

**Section 5:** Renumbers s. 633.01, F.S., as s. 633.104, F.S., and amends language to require the renewal of fire safety inspector certifications every four years and allow the SFM to contract with a third party to administer examinations.

**Section 6:** Renumbers ss. 633.163 and 633.167, F.S., as s. 633.106, F.S., and amends language to consolidate disciplinary proceedings into the same section and allow for new disciplinary proceedings against SFM licensees who lack qualifications for licensure.

**Section 7:** Renumbers s. 633.15, F.S., as s. 633.108, F.S.

**Section 8:** Renumbers and combines parts of ss. 633.101, 633.18, 633.03, and 633.111, F.S., as s. 633.112, F.S., to consolidate sections regarding SFM's investigative powers and clarify that such powers extend to investigations of explosions.

**Section 9:** Renumbers and combines ss. 633.02 and 633.13, F.S., as s. 633.114, F.S.

**Section 10:** Renumbers s. 633.14, F.S., as s. 633.116, F.S.

**Section 11:** Renumbers s. 633.121, F.S., as s. 633.118, F.S., and amends to change "fire department" to "fire service provider."

**Section 12:** Renumbers s. 633.151, F.S., as s. 633.122, F.S., and amends to add penalties for impersonation of a volunteer firefighter.

**Section 13:** Renumbers s. 633.171, F.S., as s. 633.124, F.S., and amends to add penalties for rendering a fire protection system inoperable.

**Section 14:** Renumbers s. 633.175, F.S., as s. 633.126, F.S., and amends to add definition of "consultant" and clarify that SFM's investigatory powers extend to investigations of explosions.

**Section 15:** Renumbers s. 633.45, F.S., as s. 633.128, F.S., and amends to give instructors four years to complete an increased number of continuing education hours.

**Section 16:** Creates s. 633.132, F.S., to codify current fees assessed by FSM and to reduce fee for downgrading to a lesser fire equipment dealer license.

**Section 17:** Renumbers s. 633.39, F.S., as s. 633.134, F.S.

**Section 18:** Renumbers s. 633.115, F.S., as s. 633.036, F.S, and amends for consistency of language.

**Section 19:** Creates s. 633.138, F.S., to impose expanded reporting requirements on licensees.

**Section 20:** Renumbers ss. 633.042, and 633.0421, F.S., as s. 633.142, F.S.

**Section 21:** Creates and entitles Part II of Chapter 633 "Fire Safety and Prevention".

**Section 22:** Renumbers s. 633.0215, F.S., as s. 633.202, F.S, and amends to remove obsolete provisions.

**Section 23:** Renumbers s. 633.72, F.S., as s. 633.204, F.S, and amends to codify current practices relating to the Florida Fire Code Advisory Council.

**Section 24:** Renumbers s. 633.022, F.S., as s. 633.206, F.S, and amends to remove obsolete provisions and to clarify that state universities are state owned facilities.

**Section 25:** Renumbers s. 633.025, F.S., as s. 633.208, F.S, and amends for consistency of language.

**Section 26:** Renumbers s. 633.026, F.S., as s. 633.212, F.S, and amends for consistency of language.

**Section 27:** Renumbers s. 633.052, F.S., as s. 633.214, F.S, and amends for consistency of language.

**Section 28:** Renumbers s. 633.081, F.S., as s. 633.216, F.S, and amends to remove transferred language and to extend fire safety inspector certification period to four years.

**Section 29:** Renumbers s. 633.085, F.S., as s. 633.218, F.S, and amends to add definitions and to require state-owned or state-leased buildings to be identified through the use of the U.S. National Grid Coordinate System.

**Section 30:** Renumbers s. 633.027, F.S., as s. 633.222, F.S.

**Section 31:** Renumbers s. 633.60, F.S., as s. 633.224, F.S.

**Section 32:** Renumbers s. 633.557, F.S., as s. 633.226, F.S.

**Section 33:** Renumbers s. 633.161, F.S., as s. 633.228, F.S.

**Section 34:** Creates and entitles Part III of Chapter 633 "Fire Protection and Suppression".

**Section 35:** Renumbers ss. 633.511, and 633.514, F.S., as s. 633.302, F.S, and amends for consistency of language.

**Section 36:** Renumbers s. 633.061, F.S., as s. 633.304, F.S, and amends to remove transferred provisions, add definitions, and provides procedures for out-of-state applicants and licensees to obtain a facility inspection.

**Section 37:** Renumbers s. 633.065, F.S., as s. 633.306, F.S.

- Section 38:** Renumbers s. 633.071, F.S., as s. 633.308, F.S.
- Section 39:** Renumbers s. 633.082, F.S., as s. 633.312, F.S, and amends for consistency of language.
- Section 40:** Renumbers s. 633.083, F.S., as s. 633.314, F.S, and amends for consistency of language.
- Section 41:** Renumbers s. 633.162, F.S., as s. 633.316, F.S, and amends for consistency of language.
- Section 42:** Renumbers s. 633.521, F.S., as s. 633.318, F.S, and amends for consistency of language.
- Section 43:** Renumbers s. 633.551, F.S., as s. 633.322, F.S, and amends for consistency of language.
- Section 44:** Renumbers s. 633.527, F.S., as s. 633.324, F.S.
- Section 45:** Renumbers s. 633.531, F.S., as s. 633.326, F.S.
- Section 46:** Renumbers s. 633.534, F.S., as s. 633.328, F.S, and amends for consistency of language.
- Section 47:** Renumbers s. 633.537, F.S., as s. 633.332, F.S, and amends for consistency of language.
- Section 48:** Renumbers s. 633.539, F.S., as s. 633.334, F.S, and amends for consistency of language.
- Section 49:** Renumbers s. 633.541, F.S., as s. 633.336, F.S, and amends for consistency of language.
- Section 50:** Renumbers s. 633.547, F.S., as s. 633.338, F.S, and amends for consistency of language.
- Section 51:** Renumbers s. 633.549, F.S., as s. 633.342, F.S, and amends for consistency of language.
- Section 52:** Renumbers s. 633.554, F.S., as s. 633.344, F.S.
- Section 53:** Renumbers s. 633.70, F.S., as s. 633.346, F.S.
- Section 54:** Renumbers s. 633.701, F.S., as s. 633.348, F.S.
- Section 55:** Renumbers s. 633.702, F.S., as s. 633.3482, F.S, and amends for consistency of language.
- Section 56:** Creates and entitles Part IV of Chapter 633 “Fire Standards and Training”.
- Section 57:** Renumbers ss. 633.31, 633.32, and 633.33, F.S., as s. 633.402, F.S, and amends to increase membership of Firefighters Employment, Standards, and Training Advisory Council.
- Section 58:** Renumbers s. 633.42, F.S., as s. 633.404, F.S, and amends for consistency of language.
- Section 59:** Creates s. 633.406, F.S., to codify current certificates awarded by the division and grants rulemaking authority to establish additional certificates for specialized firefighting instruction.
- Section 60:** Renumbers ss. 633.35 and 633.37, F.S., as s. 633.408, F.S., and amends to clarify courses that must be taken to attain certificates.
- Section 61:** Renumbers s. 633.34, F.S., as s. 633.412, F.S., and amends to impose new requirements related to criminal history on applicants for firefighter certification.
- Section 62:** Renumbers s. 633.352, F.S., as s. 633.414, F.S., and amends to extend firefighter certifications to four years and to offer new options to retain firefighter certifications.

**Section 63:** Renumbers s. 633.41, F.S., as s. 633.416, F.S, and amends to add reporting requirements for fire service providers.

**Section 64:** Renumbers s. 633.38, F.S., as s. 633.418, F.S, and amends for consistency of language.

**Section 65:** Renumbers s. 633.382, F.S., as s. 633.422, F.S, and amends to remove obsolete provisions and to add "full time employee" to qualifications for supplement compensation.

**Section 66:** Renumbers s. 633.353, F.S., as s. 633.424, F.S, and amends for consistency of language.

**Section 67:** Renumbers s. 633.351, F.S., as s. 633.426, F.S, and amends to create felony tracking system for fire service personnel through digital fingerprinting.

**Section 68:** Renumbers s. 633.43, F.S., as s. 633.428, F.S, and amends for consistency of language.

**Section 69:** Renumbers s. 633.44, F.S., as s. 633.432, F.S, and amends for consistency of language.

**Section 70:** Renumbers s. 633.48, F.S., as s. 633.434, F.S.

**Section 71:** Renumbers s. 633.461, F.S., as s. 633.436, F.S, and amends for consistency of language.

**Section 72:** Renumbers s. 633.46, F.S., as s. 633.446, F.S.

**Section 73:** Renumbers s. 633.47, F.S., as s. 633.438, F.S.

**Section 74:** Renumbers s. 633.49, F.S., as s. 633.442, F.S.

**Section 75:** Renumbers s. 633.50, F.S., as s. 633.444, F.S., and amends to require training providers to be licensed and have class curricula approved prior to delivery.

**Section 76:** Creates and entitles Part V of Chapter 633 "Florida Firefighters Occupational Safety and Health Act".

**Section 77:** Renumbers s. 633.801, F.S., as s. 633.502, F.S.

**Section 78:** Renumbers s. 633.802, F.S., as s. 633.504, F.S., and amends to clarify definitions.

**Section 79:** Renumbers s. 633.803, F.S., as s. 633.506, F.S., and amends with conforming language.

**Section 80:** Renumbers ss. 633.821 and 633.808, F.S., as s. 633.508, F.S., and amends to remove obsolete provisions.

**Section 81:** Renumbers s. 633.817, F.S., as s. 633.512, F.S., and amends with conforming language.

**Section 82:** Renumbers s. 633.805, F.S., as s. 633.514, F.S.

**Section 83:** Renumbers ss. 633.806 and 633.815, F.S., as s. 633.516, F.S., and amends for consistency of language.

**Section 84:** Renumbers s. 633.807, F.S., as s. 633.518, F.S., and amends for consistency of language.

**Section 85:** Renumbers ss. 633.809, 633.810, and 633.813, F.S., as s. 633.522, F.S., and amends to allow fire safety providers with high frequencies of injuries to collaborate with SFM on adopting a corrective action program.

**Section 86:** Renumbers s. 633.811, F.S., as s. 633.526, F.S., and amends to allow SFM to seek new administrative remedies against workplaces that fail to comply with corrective action programs.

**Section 87:** Renumbers s. 633.812, F.S., as s. 633.528, F.S., and amends with conforming language.

**Section 88:** Renumbers s. 633.816, F.S., as s. 633.532, F.S., and amends with conforming language.

**Section 89:** Renumbers ss. 633.818 and 633.819, F.S., as s. 633.534, F.S., and amends to remove obsolete language.

**Section 90:** Renumbers s. 633.814, F.S., as s. 633.536, F.S., and amends to remove obsolete cross-references.

**Section 91:** Amends s. 554.103, F.S., to require new boilers to meet the most current mandatory boiler code before they are installed.

**Section 92:** Amends s. 791.012, F.S., to require outdoor fireworks displays to comply with the current Florida Fire Prevention Code.

**Section 93:** Amends s. 791.015, F.S., to clarify that the registration fee of seasonal retailers of sparklers is \$200 per location.

**Section 94:** Repeals ss. 633.024, 633.0245, 633.30, 633.445, 633.524, 633.804, and 633.820, F.S.

**Sections 95 through 140:** Corrects cross references to reflect new chapter organization.

**Section 141:** Establishes an effective date of July 1, 2013.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill will have an insignificant fiscal impact on state government revenues. The DFS indicates that there may be a loss of \$300 in revenue to the Insurance Regulatory Trust Fund (IRTF) based on the new option to downgrade Fire Equipment Dealer Licenses. Only 2 Fire Equipment Dealers that would qualify as a downgrade in license have been recorded since December of 2011.

#### 2. Expenditures:

See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.



C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill will allow for the SFM to adopt delivery by e-mail as adequate notification to licensees for any official communication by the division. This will reduce the expenditures related to postage and printing currently used by the department to notify licensees and produce an estimated annual savings of \$26,000.

The bill also eliminates the SFM's travel expenditures associated with inspections of out-of-state fire equipment dealers. Current law requires the SFM to send inspectors to dealers located outside the state, incurring significant travel expenditures in excess of the fee assessed by the SFM for the inspection. The bill eliminates these expenditures by allowing such dealers to obtain an independent inspection from a licensed inspector, or alternatively, to pay all travel expenditures incurred by the SFM for inspecting the facility.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or, reduce the percentage of a state tax shared with counties or municipalities.

2. Other: *Incorporation by reference and delegation of legislative authority*

Currently, s. 554.103, F.S., gives rulemaking authority to DFS to adopt by rule a State Boiler Code for the safe construction, installation, inspection, maintenance, and repair of boilers in this state.

Lines 6034-6040 of the bill mandate that "new boilers installed or imported into this state shall be constructed to the most current mandatory boiler code, known as the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers, *including all amendments, code cases, and interpretations approved thereto* by the Council on Codes and Standards of A.S.M.E." (emphasis added). It appears that DFS intends this provision to enable the agency to use the most recent boiler code instead of adopting the new code each year via rule.<sup>4</sup>

As a general rule, a cross-reference to a specific statute or model act incorporates the language of the referenced act as it existed at the time the reference was enacted, unaffected by any subsequent amendments to the incorporated act.<sup>5</sup> For example, the legislature may adopt provisions of federal statutes and administrative rules made by a federal administrative body "that are in existence and in effect at the time the legislature acts, but it would be an unconstitutional delegation of legislative power for the legislature to adopt in advance any federal act or the ruling of any federal administrative body that Congress or such administrative body might see fit to adopt in the future."<sup>6</sup>

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<sup>4</sup> Material on file with Banking & Insurance Subcommittee staff.

<sup>5</sup> See *Overstreet v. Blum*, 227 So. 2d 197 (Fla. 1969); *Hecht v. Shaw*, 151 So. 333 (1933).

<sup>6</sup> *Florida Industrial Commission v. State*, 155 Fla. 772, 21 So.2d 599 (1945). See also *Freimuth v. State*, 272 So.2d 473 (Fla.1972); *State v. Camil*, 279 So.2d 832 (Fla.1973).

A court would likely apply this same principle when reviewing a statute that incorporates a model act promulgated by an organization such as ASME. Accordingly, while the bill may adopt the current ASME model act in effect, it is possible that a reviewing court would not uphold that part of a statute that adopts any future amendments to that model act.<sup>7</sup>

#### B. RULE-MAKING AUTHORITY:

The bill provides that SFM has rulemaking authority to achieve the following objectives:

- Establish uniform minimum standards for firefighter training.<sup>8</sup>
- Establish criteria for the approval of fire safety education or training providers and the approval of fire safety instruction course curricula.<sup>9</sup>
- Establish procedures for reporting by insurance companies of suspected intentional fires to SFM.<sup>10</sup>
- Administer required reporting by fire service providers of important changes in status of fire safety personnel.<sup>11</sup>
- Create a system for inspecting out-of-state fire equipment dealers or to recoup travel costs incurred by SFM.<sup>12</sup>
- Approve course work or degrees that qualify a firefighter for supplemental compensation while pursuing higher education.<sup>13</sup>

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 13, 2013, the Insurance & Banking Subcommittee considered the bill and adopted a strike-all amendment removing provisions requiring FDLE to search and retain the fingerprints of currently employed firefighters. This change removed the bill's negative fiscal impact to DFS. In addition, the amendment removed a provision that provided DFS new rulemaking authority for creating new fees, and it restored language contained in current law providing the agency authority to fix and collect admission fees for fire safety training purposes. Furthermore, the amendment extended from two to four years the period during which fire equipment dealers may maintain an inactive permit; clarified definitions to reflect current practices; restored current law providing locations for which SFM is required to adopt minimum fire safety standards; clarified the scope of contractor licenses; and corrected drafting errors. The analysis has been updated to reflect the change made by adoption of the amendment.

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<sup>7</sup> Courts may sever a valid portion of laws from the remainder and continue to enforce the valid portion. *Carter v. Carter Coal Co.*, 298 U.S. 238 (1936); *Florida Hosp. Waterman, Inc. v. Buster*, 984 So.2d 478 (Fla. 2008); *Ray v. Mortham*, 742 So.2d 1276 (Fla. 1999); *Wright v. State*, 351 So.2d 708 (Fla. 1977).

<sup>8</sup> Sections 15, 59, 60, and 62, CS/HB 883.

<sup>9</sup> Section 75, CS/HB 883.

<sup>10</sup> Section 14, CS/HB 883.

<sup>11</sup> Section 63, CS/HB 883.

<sup>12</sup> Section 36, CS/HB 883.

<sup>13</sup> Section 64, CS/HB 883.

On March 27, 2013, the Government Operations Appropriations Subcommittee adopted three amendments and reported the bill favorably as a committee substitute. The amendments:

- Correct a drafting error in the bill by providing that all moneys collected by the State Fire Marshal shall be deposited into the Insurance Regulatory Trust Fund.
- Correct a drafting error in the bill relating to a Certificate of Competency.
- Correct a drafting error in the bill relating to valid fire instructor certificates.

This analysis is drafted to the committee substitute as passed by the Government Operations Appropriations Subcommittee.

1 A bill to be entitled  
 2 An act relating to fire safety and prevention;  
 3 amending s. 112.011, F.S.; removing provisions that  
 4 exclude from employment for a specified period an  
 5 applicant for employment with any fire department who  
 6 has a prior felony conviction; reenacting and amending  
 7 s. 112.191, F.S.; revising provisions relating to  
 8 adjustments in payments of accidental death benefits  
 9 for firefighters; creating part I of chapter 633,  
 10 F.S., entitled "General Provisions"; transferring,  
 11 renumbering, and amending s. 633.021, F.S.; revising  
 12 and providing definitions; transferring, renumbering,  
 13 and amending ss. 633.01 and 633.517, F.S.;  
 14 consolidating and revising provisions relating to the  
 15 authority of the State Fire Marshal; removing the  
 16 references to the Life Safety Code; revising the  
 17 renewal period for firesafety inspector requirements  
 18 for certification; conforming cross-references;  
 19 removing provisions relating to rulemaking,  
 20 application fees for certification, and deposit of  
 21 moneys collected by the State Fire Marshal that are  
 22 relocated within ch. 633; transferring, renumbering,  
 23 and amending ss. 633.163 and 633.167, F.S.;  
 24 consolidating provisions which prescribe disciplinary  
 25 authority of the State Fire Marshal; transferring and  
 26 renumbering s. 633.15, F.S., relating to the force and  
 27 effect of ch. 633, F.S., and rules promulgated by the  
 28 State Fire Marshal on municipalities, counties, and

29 special districts having firesafety responsibilities;  
 30 transferring, renumbering, and amending ss. 633.101,  
 31 633.18, 633.03, and 633.111, F.S.; consolidating  
 32 provisions relating to hearings, investigations, and  
 33 recordkeeping duties and the authority of the State  
 34 Fire Marshal; including explosions within such  
 35 investigatory and recordkeeping authority;  
 36 transferring, renumbering, and amending ss. 633.02 and  
 37 633.13, F.S.; consolidating provisions relating to the  
 38 authority, duties, and compensation of agents of the  
 39 State Fire Marshal; transferring and renumbering s.  
 40 633.14, F.S., relating to the powers of agents of the  
 41 State Fire Marshal to make arrests, conduct searches  
 42 and seizures, serve summonses, and carry firearms;  
 43 transferring, renumbering, and amending s. 633.121,  
 44 F.S., relating to persons authorized to enforce laws  
 45 and rules of the State Fire Marshal; revising  
 46 terminology; making an editorial change; transferring,  
 47 renumbering, and amending s. 633.151, F.S.; clarifying  
 48 provisions relating to impersonating the State Fire  
 49 Marshal, a firefighter, or firesafety inspector, or  
 50 volunteer firefighter, for which a criminal penalty is  
 51 provided; transferring, renumbering, and amending s.  
 52 633.171, F.S.; providing penalties for rendering a  
 53 fire protection system required by statute or by rule  
 54 inoperative; providing penalties for using the  
 55 certificate of another person, holding a license or  
 56 certificate and allowing another person to use the

57 license or certificate, and using or allowing the use  
 58 of any certificate or permit by any individual or  
 59 organization other than the individual to whom the  
 60 certificate or permit is issued; correcting a cross-  
 61 reference, to conform; transferring, renumbering, and  
 62 amending s. 633.175, F.S., relating to investigation  
 63 of fraudulent insurance claims and crimes and immunity  
 64 of insurance companies supplying information relative  
 65 thereto; defining the term "consultant"; revising  
 66 provisions to include investigation of explosions in  
 67 fraudulent insurance claim investigations; authorizing  
 68 the State Fire Marshal to adopt rules to implement  
 69 provisions relating to an insurance company's  
 70 investigation of a suspected fire or explosion by  
 71 intentional means; transferring, renumbering, and  
 72 amending s. 633.45, F.S.; clarifying and revising the  
 73 powers and duties of the Division of State Fire  
 74 Marshal; requiring the division to establish by rule  
 75 uniform minimum standards for the employment and  
 76 training of firefighters and volunteer firefighters;  
 77 requiring the division to establish by rule minimum  
 78 curriculum requirements and criteria for the approval  
 79 of education or training providers; requiring the  
 80 division to specify by rule standards for the  
 81 approval, denial of approval, probation, suspension,  
 82 and revocation of approval of education or training  
 83 providers and facilities for training firefighters and  
 84 volunteer firefighters; requiring the division to

85 specify by rule standards for the certification,  
 86 denial of certification, probation, and revocation of  
 87 certification for instructors; requiring the division  
 88 to establish by rule minimum training qualifications  
 89 for persons serving as specified firesafety  
 90 coordinators; requiring the division to issue  
 91 specified licenses, certificates, and permits;  
 92 conforming cross-references; creating s. 633.132,  
 93 F.S.; establishing fees to be collected by the  
 94 division; providing for the deposit of all funds  
 95 collected by the State Fire Marshal pursuant to ch.  
 96 633, F.S.; transferring and renumbering s. 633.39,  
 97 F.S., relating to acceptance by the division of  
 98 donations of property and grants of money;  
 99 transferring, renumbering, and amending s. 633.115,  
 100 F.S., relating to the Fire and Emergency Incident  
 101 Information Reporting Program; making editorial  
 102 changes; conforming a cross-reference; creating s.  
 103 633.138, F.S.; providing requirements with respect to  
 104 notice of change of address of record for, and notice  
 105 of felony actions against, a licensee, permittee, or  
 106 certificateholder; transferring, renumbering, and  
 107 amending ss. 633.042 and 633.0421, F.S.; consolidating  
 108 the "Reduced Cigarette Ignition Propensity Standard  
 109 and Firefighter Protection Act" and specified  
 110 preemption provisions; creating part II of chapter  
 111 633, F.S., entitled "Fire Safety and Prevention";  
 112 transferring, renumbering, and amending s. 633.0215,

141 to ordinances relating to firesafety and penalties for  
 142 violation; conforming terminology; providing that a  
 143 special district may enact any ordinance relating to  
 144 firesafety codes that is identical to ch. 633, F.S.,  
 145 or any state law, except as to penalty; transferring,  
 146 renumbering, and amending s. 633.081, F.S.; clarifying  
 147 persons authorized to inspect buildings and structures  
 148 subject to the requirements of ch. 633, F.S., or s.  
 149 509.215, F.S.; conforming cross-references; revising  
 150 requirements of persons conducting firesafety  
 151 inspections; revising period of validity of, and  
 152 continuing education requirements for, firesafety  
 153 inspector certificates; requiring repeat training for  
 154 certified fire safety inspectors whose certification  
 155 has lapsed for a specified period; revising grounds  
 156 for denial, refusal to renew, suspension, or  
 157 revocation of a firesafety inspector certificate;  
 158 requiring the department to provide by rule for the  
 159 certification of Fire Code Administrators;  
 160 transferring, renumbering, and amending s. 633.085,  
 161 F.S.; defining the terms "high-hazard occupancy" and  
 162 "state-owned building"; providing for identification  
 163 of state-owned buildings or state-leased buildings or  
 164 space; authorizing, rather than requiring, the State  
 165 Fire Marshal or agents thereof to conduct performance  
 166 tests on any electronic fire warning and smoke  
 167 detection system, and any pressurized air-handling  
 168 unit, in any state-owned building or state-leased

113 F.S., the Florida Fire Prevention Code; authorizing  
 114 the State Fire Marshal to adopt rules; conforming  
 115 cross-references; deleting an obsolete provision;  
 116 transferring, renumbering, and amending s. 633.72,  
 117 F.S., relating to the Florida Fire Code Advisory  
 118 Council; revising membership of the council; providing  
 119 for semiannual meetings of the council; authorizing  
 120 the council to review proposed changes to the Florida  
 121 Fire Prevention Code and specified uniform fire safety  
 122 standards; conforming cross-references; transferring,  
 123 renumbering, and amending s. 633.022, F.S., relating  
 124 to uniform firesafety standards; revising  
 125 applicability of uniform firesafety standards;  
 126 removing obsolete provisions; transferring,  
 127 renumbering, and amending s. 633.025, F.S., relating  
 128 to minimum firesafety standards; eliminating  
 129 references to the Life Safety Code; revising  
 130 references to firesafety code and fire official, to  
 131 conform; conforming a cross-reference; transferring,  
 132 renumbering, and amending s. 633.026, F.S., relating  
 133 to informal interpretations of the Florida Fire  
 134 Prevention Code and legislative intent with respect  
 135 thereto; making editorial changes; conforming cross-  
 136 references; revising terminology to provide for  
 137 declaratory statements rather than formal  
 138 interpretations in nonbinding interpretations of  
 139 Florida Fire Prevention Code provisions; transferring,  
 140 renumbering, and amending s. 633.052, F.S., relating

197 transferring, renumbering, and amending s. 633.161,  
 198 F.S., relating to violations and enforcement of ch.  
 199 633, F.S., orders resulting from violations, and  
 200 penalties for violation; conforming cross-references;  
 201 creating part III of chapter 633, F.S., entitled "Fire  
 202 Protection and Suppression"; transferring and  
 203 renumbering ss. 633.511 and 633.514, F.S.;

204 consolidating provisions relating to the Florida Fire  
 205 Safety Board; making editorial changes; conforming  
 206 cross-references; transferring, renumbering, and  
 207 amending s. 633.061, F.S., relating to licensure to  
 208 install or maintain fire suppression equipment;  
 209 removing the fee schedule from such provisions;  
 210 revising provisions relating to fire equipment dealers  
 211 who wish to withdraw a previously filed halon  
 212 equipment exemption affidavit; providing conditions  
 213 that an applicant for a license of any class who has  
 214 facilities located outside the state must meet in  
 215 order to obtain a required equipment inspection;  
 216 providing for the adoption of rules with respect to  
 217 the establishment and calculation of inspection costs;  
 218 revising and clarifying provisions which exclude from  
 219 licensure for a specified period applicants having a  
 220 previous criminal conviction; defining the term  
 221 "convicted"; providing conditions under which a  
 222 licensed fire equipment dealer may apply to convert  
 223 the license currently held to a lower licensing  
 224 category; providing procedure for an applicant who

169 building or space on a recurring basis; requiring the  
 170 State Fire Marshal or agents thereof to ensure that  
 171 fire drills are conducted in all high-hazard state-  
 172 owned buildings or high-hazard state-leased  
 173 occupancies at least annually; requiring that all new  
 174 construction or renovation, alteration, or change of  
 175 occupancy of any existing, state-owned building or  
 176 state-leased building or space comply with uniform  
 177 firesafety standards; authorizing the division to  
 178 inspect state-owned buildings and spaces and state-  
 179 leased buildings and spaces as necessary prior to  
 180 occupancy or during construction, renovation, or  
 181 alteration to ascertain compliance with uniform  
 182 firesafety standards; requiring the division to issue  
 183 orders to cease construction, renovation, or  
 184 alteration, or to preclude occupancy, of a state-owned  
 185 or state-leased building or space for noncompliance;  
 186 transferring, renumbering, and amending s. 633.027,  
 187 F.S., relating to buildings with light-frame truss-  
 188 type construction; conforming cross-references;  
 189 transferring, renumbering, and amending s. 633.60,  
 190 F.S., relating to automatic fire sprinkler systems for  
 191 one-family dwellings, two-family dwellings, and mobile  
 192 homes; conforming a cross-reference; transferring and  
 193 renumbering s. 633.557, F.S., which provides for  
 194 nonapplicability of the act to owners of property who  
 195 are building or improving farm outbuildings and  
 196 standpipe systems installed by plumbing contractors;

225 passes an examination for licensure or permit but  
 226 fails to meet remaining qualifications within 1 year  
 227 after the application date; transferring,  
 228 renumbering, and amending s. 633.065, F.S.; conforming  
 229 a cross-reference; transferring, renumbering, and  
 230 amending s. 633.071, F.S., relating to standard  
 231 service tags required on all fire extinguishers and  
 232 preengineered systems; conforming a cross-reference;  
 233 transferring, renumbering, and amending s. 633.082,  
 234 F.S., relating to inspection of fire control systems,  
 235 fire hydrants, and fire protection systems; conforming  
 236 a cross-reference; making an editorial change;  
 237 transferring, renumbering, and amending s. 633.083,  
 238 F.S., relating to the prohibited sale or use of  
 239 certain types of fire extinguishers and penalty  
 240 therefor; transferring, renumbering, and amending s.  
 241 633.162, F.S., relating to fire suppression system  
 242 contractors and disciplinary actions with respect  
 243 thereto; conforming cross-references; clarifying  
 244 provisions; transferring, renumbering, and amending  
 245 s. 633.521, F.S., relating to certification as fire  
 246 protection system contractor; clarifying provisions  
 247 and making editorial changes; conforming cross-  
 248 references; transferring, renumbering, and amending s.  
 249 633.551, F.S., relating to county and municipal powers  
 250 and the effect of ch. 75-240, Laws of Florida; making  
 251 editorial changes; transferring and renumbering s.  
 252 633.527, F.S., relating to records concerning

253 applicant and the extent of confidentiality;  
 254 transferring and renumbering s. 633.531, F.S.,  
 255 relating to statewide effectiveness and  
 256 nontransferability of certificates; transferring,  
 257 renumbering, and amending s. 633.534, F.S., relating  
 258 to the issuance of certificates to individuals and  
 259 business organizations; conforming a reference;  
 260 transferring, renumbering, and amending s. 633.537,  
 261 F.S., relating to renewal and expiration of  
 262 certificates; removing an obsolete provision; removing  
 263 a provision which prescribes the biennial renewal fee  
 264 for an inactive status certificate; making editorial  
 265 changes; transferring, renumbering, and amending s.  
 266 633.539, F.S., relating to requirements for  
 267 installation, inspection, and maintenance of fire  
 268 protection systems; correcting a cross-reference;  
 269 conforming a reference; clarifying provisions relating  
 270 to specified installation of a cross-connection  
 271 backflow prevention device; transferring, renumbering,  
 272 and amending s. 633.541, F.S., relating to the  
 273 prohibition against contracting as a fire protection  
 274 contractor without a certificate and penalty for  
 275 violation thereof; conforming cross-references;  
 276 transferring, renumbering, and amending s. 633.547,  
 277 F.S.; revising provisions which authorize the State  
 278 Fire Marshal to suspend a fire protection system  
 279 contractor's or permittee's certificate; removing  
 280 provisions authorizing revocation of a certificate for



309 qualifications and standards for hiring, training, or  
 310 promoting firefighters that exceed the minimum set by  
 311 the department; conforming terminology; creating s.  
 312 633.406, F.S.; specifying classes of certification  
 313 awarded by the division; authorizing the division to  
 314 establish specified additional certificates by rule;  
 315 transferring, renumbering, and amending ss. 633.35 and  
 316 633.37 F.S.; consolidating and revising provisions  
 317 relating to firefighter and volunteer firefighter  
 318 training and certification; requiring the division to  
 319 establish by rule specified courses and course  
 320 examinations; providing that courses may only be  
 321 administered by specified education or training  
 322 providers and taught by certified instructors;  
 323 revising provisions with respect to payment of  
 324 training costs and payment of tuition for attendance  
 325 at approved courses; providing requirements for  
 326 issuance by the division of a firefighter certificate  
 327 of compliance; providing requirements for issuance by  
 328 the division of a Volunteer Firefighter Certificate of  
 329 Completion; authorizing the division to issue a  
 330 Special Certificate of Compliance; providing  
 331 requirements and limitations with respect thereto;  
 332 providing procedures and requirements for  
 333 reexamination subsequent to failure of an examination;  
 334 increasing the required number of hours of the  
 335 structural fire training program; providing for a  
 336 Forestry Certificate of Compliance and prescribing the

281 a specified period; conforming a cross-reference;  
 282 transferring, renumbering, and amending s. 633.549,  
 283 F.S., relating to violations that are subject to  
 284 injunction; making an editorial change; transferring  
 285 and renumbering s. 633.554, F.S., relating to  
 286 application of ch. 633, F.S., regulating contracting  
 287 and contractors; transferring, renumbering, and  
 288 amending s. 633.70, F.S., relating to jurisdiction of  
 289 the State Fire Marshal over alarm system contractors  
 290 and certified unlimited electrical contractors;  
 291 conforming a cross-reference; transferring and  
 292 renumbering s. 633.701, F.S., relating to requirements  
 293 for fire alarm system equipment; transferring,  
 294 renumbering, and amending s. 633.702, F.S., relating  
 295 to prohibited acts regarding alarm system contractors  
 296 or certified unlimited electrical contractors and  
 297 penalties for violations; making editorial changes;  
 298 creating part IV of chapter 633, F.S., entitled "Fire  
 299 Standards and Training"; transferring, renumbering,  
 300 and amending ss. 633.31 and 633.33, F.S., and  
 301 transferring and renumbering s. 633.32, F.S.;  
 302 consolidating provisions relating to the Firefighters  
 303 Employment, Standards, and Training Council; providing  
 304 for an additional member of the council; revising  
 305 special powers of the council in connection with the  
 306 employment and training of firefighters; transferring,  
 307 renumbering, and amending s. 633.42, F.S., relating to  
 308 authority of fire service providers to establish

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337 rights, privileges, and benefits thereof;  
 338 transferring, renumbering, and amending s. 633.34,  
 339 F.S.; revising and reorganizing provisions relating to  
 340 qualifications for certification as a firefighter;  
 341 providing requirements of the division with respect to  
 342 suspension or revocation of a certificate;  
 343 transferring, renumbering, and amending s. 633.352,  
 344 F.S.; revising provisions relating to retention of  
 345 certification as a firefighter; defining the term  
 346 "active"; transferring, renumbering, and amending s.  
 347 633.41, F.S.; prohibiting a fire service provider from  
 348 employing an individual as a firefighter or supervisor  
 349 of firefighters and from retaining the services of an  
 350 individual volunteering as a firefighter or a  
 351 supervisor of firefighters without required  
 352 certification; requiring a fire service provider to  
 353 make a diligent effort to determine possession of  
 354 required certification prior to employing or retaining  
 355 an individual for specified services; defining the  
 356 term "diligent effort"; requiring a fire service  
 357 provider to notify the division of specified hirings,  
 358 retentions, terminations, decisions not to retain a  
 359 firefighter, and determinations of failure to meet  
 360 certain requirements; authorizing the division to  
 361 conduct site visits to fire departments to monitor  
 362 compliance; defining the term "employ"; conforming  
 363 cross-references; transferring, renumbering, and  
 364 amending s. 633.38, F.S., relating to curricula and

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CODING: Words ~~in red~~ are deletions; words in blue are additions.

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365 standards for advanced and specialized training  
 366 prescribed by the division; revising terminology to  
 367 conform; conforming cross-references; transferring,  
 368 renumbering, and amending s. 633.382, F.S.; revising  
 369 provisions relating to supplemental compensation for  
 370 firefighters who pursue specified higher educational  
 371 opportunities; removing definitions; requiring the  
 372 State Fire Marshal to determine course work or degrees  
 373 that represent the best practices toward supplemental  
 374 compensation goals; authorizing the adoption of rules;  
 375 specifying that supplemental compensation shall be  
 376 paid to qualifying full-time employees of a fire  
 377 service provider; conforming terminology; clarifying  
 378 provisions; specifying that policy guidelines be  
 379 adopted by rule; classifying the division as a fire  
 380 service provider responsible for the payment of  
 381 supplemental compensation to full-time firefighters  
 382 employed by the division; transferring, renumbering,  
 383 and amending s. 633.353, F.S.; clarifying provisions  
 384 which provide a penalty for falsification of  
 385 qualifications provided to the Bureau of Fire  
 386 Standards and Training of the division; transferring,  
 387 renumbering, and amending s. 633.351, F.S.; providing  
 388 definitions; providing conditions for ineligibility to  
 389 apply for certification under ch. 633, F.S.; providing  
 390 conditions for permanent revocation of certification,  
 391 prospective application of such provisions, and  
 392 retroactive application with respect to specified

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CODING: Words ~~in red~~ are deletions; words in blue are additions.

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421	Marshal related to the Florida State Fire College;
422	conforming cross-references; creating part V of ch.
423	633, F.S., entitled "Florida Firefighters Occupational
424	Safety and Health Act"; transferring, renumbering, and
425	amending s. 633.801, F.S., which provides a short
426	title; transferring, renumbering, and amending s.
427	633.802, F.S.; revising definitions of "firefighter
428	employee," "firefighter employer," and "firefighter
429	place of employment"; transferring, renumbering, and
430	amending s. 633.803, F.S., relating to legislative
431	intent to enhance firefighter occupational safety and
432	health in the state; clarifying provisions; conforming
433	references; transferring, renumbering, and amending
434	ss. 633.821 and 633.808, F.S.; revising provisions
435	relating to assistance by the division in facilitating
436	firefighter employee workplace safety; revising
437	references to publications; removing obsolete
438	provisions; revising requirements of the division;
439	transferring, renumbering, and amending s. 633.817,
440	F.S., relating to remedies available to the division
441	for noncompliance with pt. V of ch. 633, F.S., the
442	Florida Firefighters Occupational Safety and Health
443	Act; transferring and renumbering s. 633.805, F.S.,
444	relating to a required study by the division of
445	firefighter employee occupational diseases;
446	transferring, renumbering, and amending ss. 633.806
447	and 633.815, F.S.; revising and consolidating
448	provisions which require the division to make studies,

393	convictions; revising provisions relating to
394	revocation of certification; providing division
395	procedure with respect to an individual's conviction
396	of a felony or specified misdemeanor subsequent to
397	certification; authorizing the division to charge a
398	fingerprint processing fee; transferring, renumbering,
399	and amending s. 633.43, F.S., relating to the
400	establishment of the Florida State Fire College;
401	conforming a reference; transferring, renumbering,
402	and amending s. 633.44, F.S.; expanding the purposes
403	of the Florida State Fire College and pt. IV of ch.
404	633, F.S.; conforming a cross-reference; transferring,
405	renumbering, and amending s. 633.48, F.S., relating to
406	the superintendent of the Florida State Fire College;
407	correcting a cross-reference, to conform;
408	transferring, renumbering, and amending s. 633.461,
409	F.S.; revising uses of funds received by the Florida
410	State Fire College from the Insurance Regulatory Trust
411	Fund; transferring and renumbering s. 633.46, F.S.,
412	relating to fees charged for training; transferring
413	and renumbering s. 633.47, F.S., relating to procedure
414	for making expenditures on behalf of the Florida State
415	Fire College; transferring, renumbering, and amending
416	s. 633.49, F.S., relating to the use of buildings,
417	equipment, and other facilities of the fire college;
418	conforming a cross-reference; transferring,
419	renumbering, and amending s. 633.50, F.S.; providing
420	additional duties of the division of State Fire

449 investigations, inspections, and inquiries with  
 450 respect to compliance with pt. V of ch. 633, F.S., or  
 451 rules authorized thereunder, and the causes of  
 452 firefighter employee injuries, illnesses, safety-based  
 453 complaints, or line-of-duty deaths in firefighter  
 454 employee places of employment; authorizing the  
 455 division to adopt by rule procedures for conducting  
 456 inspections and inquiries of firefighter employers  
 457 under pt. V of ch. 633, F.S.; conforming references;  
 458 transferring, renumbering, and amending s. 633.807,  
 459 F.S., relating to safety responsibilities of  
 460 firefighter employers; revising definition of the  
 461 terms "safe" and "safety"; transferring, renumbering,  
 462 and amending ss. 633.809, 633.810, and 633.813, F.S.;  
 463 consolidating and revising provisions relating to  
 464 firefighter employers with a high frequency of  
 465 firefighter employee work-related injuries, corrective  
 466 plans for noncompliance issues, and workplace safety  
 467 committees and coordinators; revising provisions  
 468 relating to required safety inspections; clarifying  
 469 that the division may not assess penalties as a result  
 470 of such inspections; requiring firefighter employers  
 471 to submit a plan for the correction of any  
 472 noncompliance issues to the division for approval in  
 473 accordance with division rule; providing procedures if  
 474 a plan is not submitted, does not provide corrective  
 475 actions, is incomplete, or is not implemented;  
 476 transferring, renumbering, and amending s. 633.811,

477 F.S.; prescribing additional administrative penalties  
 478 for firefighter employers for violation of, or refusal  
 479 to comply with, pt. V of ch. 633, F.S.; providing for  
 480 location of hearings; transferring, renumbering, and  
 481 amending s. 633.812, F.S. relating to specified  
 482 cooperation by the division with the Federal  
 483 Government; clarifying requirements from which private  
 484 firefighter employers are exempt; eliminating a  
 485 prerequisite to exemption for specified firefighter  
 486 employers; requiring reinspection subsequent to  
 487 specified noncompliance; transferring, renumbering,  
 488 and amending s. 633.816, F.S., relating to firefighter  
 489 employee rights and responsibilities; conforming  
 490 references; transferring, renumbering, and amending  
 491 ss. 633.818 and 633.819, F.S.; consolidating  
 492 provisions relating to penalties for prohibited false,  
 493 fictitious, or fraudulent acts, statements, and  
 494 representations and the statute of limitations  
 495 thereon; conforming a cross-reference; transferring,  
 496 renumbering, and amending s. 633.814, F.S., relating  
 497 to disbursement of expenses to administer pt. V of ch.  
 498 633, F.S.; conforming a cross-reference; amending s.  
 499 554.103, F.S.; revising provisions of the State Boiler  
 500 Code; establishing construction standards for new  
 501 boilers installed or imported into this state;  
 502 requiring the installer, rather than the owner, of a  
 503 boiler placed in use after a specified date to submit  
 504 a data report prior to operation; amending s.

533 inspections and consultations; repealing s. 633.820,  
 534 F.S., relating to the applicability of specified  
 535 sections of ch. 633, F.S., to volunteer firefighters  
 536 and volunteer fire departments; amending ss. 112.1815,  
 537 112.191, 112.81, 119.071, 120.541, 120.80, 121.0515,  
 538 125.01, 125.01045, 125.56, 166.0446, 175.032, 175.121,  
 539 196.081, 218.23, 252.515, 255.45, 258.0145, 281.02,  
 540 384.287, 395.0163, 400.232, 400.915, 429.41, 429.44,  
 541 429.73, 447.203, 468.602, 468.609, 489.103, 489.105,  
 542 496.404, 509.032, 513.05, 553.73, 553.77, 553.79,  
 543 590.02, 893.13, 934.03, 943.61, 1002.33, 1002.34,  
 544 1013.12, and 1013.38, F.S.; correcting cross-  
 545 references, to conform; providing an effective date.  
 546

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

548  
 549 Section 1. Paragraph (b) of subsection (2) of section  
 550 112.011, Florida Statutes, is amended to read:  
 551 112.011 Disqualification from licensing and public  
 552 employment based on criminal conviction.—  
 553 (2)  
 554 (b) This section does not apply to the employment  
 555 practices of any fire department relating to the hiring of  
 556 firefighters. ~~An applicant for employment with any fire~~  
 557 ~~department who has a prior felony conviction shall be excluded~~  
 558 ~~from employment for a period of 4 years after expiration of~~  
 559 ~~sentence or final release by the Parole Commission unless the~~  
 560 ~~applicant, before the expiration of the 4 year period, has~~

505 627.4107, F.S.; providing that a life or health  
 506 insurer may not cancel or fail or refuse to renew a  
 507 life or health insurance policy or certificate of  
 508 insurance that provides coverage to a volunteer  
 509 firefighter based on specified circumstances;  
 510 amending s. 791.012, F.S., relating to minimum  
 511 fireworks safety standards; updating a reference;  
 512 amending s. 791.015, F.S.; authorizing seasonal  
 513 retailers of sparklers to submit one registration form  
 514 for multiple locations; requiring each seasonal  
 515 retailer of sparklers to pay an annual registration  
 516 fee for each retail location registered; repealing s.  
 517 633.024, F.S., relating to legislative findings and  
 518 intent with respect to ensuring effective fire  
 519 protection of vulnerable nursing home residents, the  
 520 expedited retrofit of existing nursing homes through a  
 521 limited state loan guarantee, and funding thereof;  
 522 repealing s. 633.0245, F.S., relating to the State  
 523 Fire Marshal Nursing Home Fire Protection Loan  
 524 Guarantee Program; repealing s. 633.30, F.S., relating  
 525 to definitions with respect to standards for  
 526 firefighting; repealing s. 633.445, F.S., relating to  
 527 the State Fire Marshal Scholarship Grant Program;  
 528 repealing s. 633.524, F.S., relating to certificate  
 529 and permit fees assessed under ch. 633, F.S., and the  
 530 use and deposit thereof; repealing s. 633.804, F.S.,  
 531 which requires the division to adopt rules governing  
 532 firefighter employer and firefighter employee safety

589 his or her firefighter duties, is unlawfully and intentionally  
 590 killed, is injured by an unlawful and intentional act of another  
 591 person and dies as a result of such injury, dies as a result of  
 592 a fire which has been determined to have been caused by an act  
 593 of arson, or subsequently dies as a result of injuries sustained  
 594 therefrom, the sum of \$150,000, as adjusted pursuant to  
 595 paragraph (i), shall be paid as provided in this section.  
 596 Notwithstanding any other provision of law, the amount payable  
 597 under this subsection may not be less than the actual amount  
 598 stated therein.

(i) Any payments made pursuant to paragraph (a), paragraph  
 (b), or paragraph (c) shall consist of the statutory amount  
 adjusted to reflect price level changes in the Consumer Price  
 Index for all Urban Consumers published by the United States  
 Department of Labor since July 1, 2002 ~~the effective date of the~~  
~~act~~. The Division of State Fire Marshal, using the most recent  
 month for which Consumer Price Index data is available, shall on  
 June 15 of each year calculate and publish on the division's  
 internet website the amount resulting from the adjustments to ~~by~~  
~~the~~ ~~adjust~~ the statutory amounts ~~amount based on the Consumer~~  
~~Price Index for All Urban Consumers published by the United~~  
~~States Department of Labor~~. The adjusted statutory amounts  
 adjustment shall be effective on ~~the~~ July 1 of each year ~~being~~  
 the most recent month for which data are available at the time  
 of the adjustment.

Section 3. Part I of chapter 633, Florida Statutes,  
 consisting of sections 633.102, 633.104, 633.106, 633.108,  
 633.112, 633.114, 633.116, 633.118, 633.122, 633.124, 633.126,  
 633.128, 633.130, 633.132, 633.134, 633.136, 633.138, 633.140, 633.142,  
 633.144, 633.146, 633.148, 633.150, 633.152, 633.154, 633.156,  
 633.158, 633.160, 633.162, 633.164, 633.166, 633.168, 633.170,  
 633.172, 633.174, 633.176, 633.178, 633.180, 633.182, 633.184,  
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 633.256, 633.258, 633.260, 633.262, 633.264, 633.266, 633.268,  
 633.270, 633.272, 633.274, 633.276, 633.278, 633.280, 633.282,  
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 633.298, 633.300, 633.302, 633.304, 633.306, 633.308, 633.310,  
 633.312, 633.314, 633.316, 633.318, 633.320, 633.322, 633.324,  
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 633.564, 633.566, 633.568, 633.570, 633.572, 633.574, 633.576,  
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 633.662, 633.664, 633.666, 633.668, 633.670, 633.672, 633.674,  
 633.676, 633.678, 633.680, 633.682, 633.684, 633.686, 633.688,  
 633.690, 633.692, 633.694, 633.696, 633.698, 633.700, 633.702,  
 633.704, 633.706, 633.708, 633.710, 633.712, 633.714, 633.716,  
 633.718, 633.720, 633.722, 633.724, 633.726, 633.728, 633.730,  
 633.732, 633.734, 633.736, 633.738, 633.740, 633.742, 633.744,  
 633.746, 633.748, 633.750, 633.752, 633.754, 633.756, 633.758,  
 633.760, 633.762, 633.764, 633.766, 633.768, 633.770, 633.772,  
 633.774, 633.776, 633.778, 633.780, 633.782, 633.784, 633.786,  
 633.788, 633.790, 633.792, 633.794, 633.796, 633.798, 633.800,  
 633.802, 633.804, 633.806, 633.808, 633.810, 633.812, 633.814,  
 633.816, 633.818, 633.820, 633.822, 633.824, 633.826, 633.828,  
 633.830, 633.832, 633.834, 633.836, 633.838, 633.840, 633.842,  
 633.844, 633.846, 633.848, 633.850, 633.852, 633.854, 633.856,  
 633.858, 633.860, 633.862, 633.864, 633.866, 633.868, 633.870,  
 633.872, 633.874, 633.876, 633.878, 633.880, 633.882, 633.884,  
 633.886, 633.888, 633.890, 633.892, 633.894, 633.896, 633.898,  
 633.900, 633.902, 633.904, 633.906, 633.908, 633.910, 633.912,  
 633.914, 633.916, 633.918, 633.920, 633.922, 633.924, 633.926,  
 633.928, 633.930, 633.932, 633.934, 633.936, 633.938, 633.940,  
 633.942, 633.944, 633.946, 633.948, 633.950, 633.952, 633.954,  
 633.956, 633.958, 633.960, 633.962, 633.964, 633.966, 633.968,  
 633.970, 633.972, 633.974, 633.976, 633.978, 633.980, 633.982,  
 633.984, 633.986, 633.988, 633.990, 633.992, 633.994, 633.996,  
 633.998, 634.000

561 ~~received a full pardon or has had his or her civil rights~~  
 562 ~~restored.~~

Section 2. Paragraph (i) of subsection (2) of section  
 112.191, Florida Statutes, is amended, and paragraphs (a), (b),  
 and (c) of subsection (2) are reenacted, to read:

112.191 Firefighters; death benefits.—  
 (2) (a) The sum of \$50,000, as adjusted pursuant to  
 paragraph (i), shall be paid as provided in this section when a  
 firefighter, while engaged in the performance of his or her  
 firefighter duties, is accidentally killed or receives  
 accidental bodily injury which subsequently results in the loss  
 of the firefighter's life, provided that such killing is not the  
 result of suicide and that such bodily injury is not  
 intentionally self-inflicted. Notwithstanding any other  
 provision of law, in no case shall the amount payable under this  
 subsection be less than the actual amount stated therein.

(b) The sum of \$50,000, as adjusted pursuant to paragraph  
 (i), shall be paid as provided in this section if a firefighter  
 is accidentally killed as specified in paragraph (a) and the  
 accidental death occurs as a result of the firefighter's  
 response to what is reasonably believed to be an emergency  
 involving the protection of life or property or the  
 firefighter's participation in a training exercise. This sum is  
 in addition to any sum provided in paragraph (a).  
 Notwithstanding any other provision of law, the amount payable  
 under this subsection may not be less than the actual amount  
 stated therein.

(c) If a firefighter, while engaged in the performance of



645 thermal systems used in connection with sprinklers, and tanks  
 646 and pumps connected thereto, excluding preengineered systems. A  
 647 Contractor II may also perform the duties specified for a  
 648 Contractor IV and Contractor V.  
 649 (c) "Contractor III" means a contractor whose business is  
 650 limited to the execution of contracts requiring the ability to  
 651 fabricate, install, inspect, alter, repair, and service carbon  
 652 dioxide ~~CO2~~ systems, foam extinguishing systems, dry chemical  
 653 systems, and Halon and other chemical systems, excluding  
 654 preengineered systems.  
 655 (d) "Contractor IV" means a contractor whose business is  
 656 limited to the execution of contracts requiring the ability to  
 657 lay out, fabricate, install, inspect, alter, repair, and service  
 658 automatic fire sprinkler systems for detached one-family  
 659 dwellings, detached two-family dwellings, and mobile homes,  
 660 excluding preengineered systems and excluding single-family  
 661 homes in cluster units, such as apartments, condominiums, and  
 662 assisted living facilities or any building that is connected to  
 663 other dwellings. A Contractor IV is limited to the scope of  
 664 practice specified in NFPA 13D.  
 665 (e) "Contractor V" means a contractor whose business is  
 666 limited to the execution of contracts requiring the ability to  
 667 fabricate, install, inspect, alter, repair, and service the  
 668 underground piping for a fire protection system using water as  
 669 the extinguishing agent beginning at the point of service as  
 670 defined in this act and ending no more than 1 foot above the  
 671 finished floor.  
 672

617 633.128, 633.132, 633.134, 633.136, 633.138, and 633.142, is  
 618 created and entitled "General Provisions."  
 619 Section 4. Section 633.021, Florida Statutes, is  
 620 transferred, renumbered as section 633.102, Florida Statutes,  
 621 and amended to read:  
 622 633.102 ~~633.021~~ Definitions.—As used in this chapter:  
 623 (1) "Board" means the Florida Fire Safety Board.  
 624 ~~(2) "Certificate" means a certificate of competency issued~~  
 625 ~~by the State Fire Marshal.~~  
 626 ~~(3) "Certification" means the act of obtaining or holding~~  
 627 ~~a certificate of competency from the State Fire Marshal.~~  
 628 (2)(4) "Contracting" means engaging in business as a  
 629 contractor.  
 630 (3)(5)(a) "Contractor I" means a contractor whose business  
 631 includes the execution of contracts requiring the ability to lay  
 632 out, fabricate, install, inspect, alter, repair, and service all  
 633 types of fire protection systems, excluding preengineered  
 634 systems. A Contractor I may also perform all of the duties  
 635 specified for a Contractor II, Contractor III, Contractor IV,  
 636 and Contractor V.  
 637 (b) "Contractor II" means a contractor whose business is  
 638 limited to the execution of contracts requiring the ability to  
 639 lay out, fabricate, install, inspect, alter, repair, and service  
 640 water sprinkler systems, water spray systems, foam-water  
 641 sprinkler systems, foam-water spray systems, standpipes,  
 642 combination standpipes and sprinkler risers, all piping that is  
 643 an integral part of the system beginning at the point of service  
 644 as defined in this section, sprinkler tank heaters, air lines,

673 The definitions in this subsection must not be construed to  
 674 include ~~fire protection~~ engineers or architects and do not limit  
 675 or prohibit a licensed fire protection engineer or architect  
 676 with fire protection design experience from designing any type  
 677 of fire protection system. A distinction is made between system  
 678 design concepts prepared by the design professional and system  
 679 layout as defined in this section and typically prepared by the  
 680 contractor. However, persons certified as a Contractor I,  
 681 Contractor II, or Contractor IV under this chapter may design  
 682 fire protection systems of 49 or fewer sprinklers, and may  
 683 design the alteration of an existing fire sprinkler system if  
 684 the alteration consists of the relocation, addition, or deletion  
 685 of not more than 49 sprinklers, notwithstanding the size of the  
 686 existing fire sprinkler system. A Contractor I, Contractor II,  
 687 or Contractor IV may design a fire protection system the scope  
 688 of which complies with NFPA 13D, Standard for the Installation  
 689 of Sprinkler Systems in One- and Two-Family Dwellings and  
 690 Manufactured Homes, as adopted by the State Fire Marshal,  
 691 notwithstanding the number of fire sprinklers. Contractor-  
 692 developed plans may not be required by any local permitting  
 693 authority to be sealed by a registered professional engineer.  
 694 (4) "Department" means the Department of Financial  
 695 Services.  
 696 (5) "Division" means the Division of State Fire Marshal  
 697 within the Department of Financial Services.  
 698 (6) "Explosives" means any chemical compound or mixture  
 699 that has the property of yielding readily to combustion or  
 700 oxidation upon the application of heat, flame, or shock and is

701 capable of producing an explosion and is commonly used for that  
 702 purpose, including but not limited to dynamite, nitroglycerin,  
 703 trinitrotoluene, ammonium nitrate when combined with other  
 704 ingredients to form an explosive mixture, blasting caps, and  
 705 detonators; but the term does not include cartridges for  
 706 firearms or fireworks as defined in chapter 791.  
 707 (7) (a) "Fire equipment dealer Class A" means a licensed  
 708 fire equipment dealer whose business is limited to servicing,  
 709 recharging, repairing, installing, or inspecting all types of  
 710 fire extinguishers and conducting hydrostatic tests on all types  
 711 of fire extinguishers.  
 712 (b) "Fire equipment dealer Class B" means a licensed fire  
 713 equipment dealer whose business is limited to servicing,  
 714 recharging, repairing, installing, or inspecting all types of  
 715 fire extinguishers, including recharging carbon dioxide units  
 716 and conducting hydrostatic tests on all types of fire  
 717 extinguishers, except carbon dioxide units.  
 718 (c) "Fire equipment dealer Class C" means a licensed fire  
 719 equipment dealer whose business is limited to servicing,  
 720 recharging, repairing, installing, or inspecting all types of  
 721 fire extinguishers, except recharging carbon dioxide units, and  
 722 conducting hydrostatic tests on all types of fire extinguishers,  
 723 except carbon dioxide units.  
 724 (d) "Fire equipment dealer Class D" means a licensed fire  
 725 equipment dealer whose business is limited to servicing,  
 726 recharging, repairing, installing, hydrotesting, or inspecting  
 727 of all types of preengineered fire extinguishing systems.  
 728 (8) ~~¶~~ "Fire extinguisher" means ~~is~~ a cylinder that:



729 (a) Is portable and can be carried or is on wheels.  
 730 (b) Is manually operated.  
 731 (c) May use a variety of extinguishing agents that are  
 732 expelled under pressure.  
 733 (d) Is rechargeable or nonrechargeable.  
 734 (e) Is installed, serviced, repaired, recharged,  
 735 inspected, and hydrotested according to applicable procedures of  
 736 the manufacturer, standards of the National Fire Protection  
 737 Association, and the Code of Federal Regulations.  
 738 (f) Is listed by a nationally recognized testing  
 739 laboratory.  
 740 (9) "Firefighter" means an individual who holds a current  
 741 and valid Firefighter Certificate of Compliance or Special  
 742 Certificate of Compliance issued by the division under s.  
 743 633.408.  
 744 (10) "Fire service support personnel" means an individual  
 745 who does not hold a current and valid certificate issued by the  
 746 division and who is authorized only to perform support services.  
 747 (11) ~~(9)~~ "Fire hydrant" means ~~is~~ a connection to a water  
 748 main, elevated water tank, or other source of water for the  
 749 purpose of supplying water to a fire hose or other fire  
 750 protection apparatus for fire suppression operations. The term  
 751 does not include a fire protection system.  
 752 (12) ~~(10)~~ "Fire protection system" means ~~is~~ a system  
 753 individually designed to protect the interior or exterior of a  
 754 specific building or buildings, structure, or other special  
 755 hazard from fire. Such systems include, but are not limited to,  
 756 water sprinkler systems, water spray systems, foam-water

757 sprinkler systems, foam-water spray systems, carbon dioxide ~~CO2~~  
 758 systems, foam extinguishing systems, dry chemical systems, and  
 759 Halon and other chemical systems used for fire protection use.  
 760 Such systems also include any overhead and underground fire  
 761 mains, fire hydrants and hydrant mains, standpipes and hoses  
 762 connected to sprinkler systems, sprinkler tank heaters, air  
 763 lines, thermal systems used in connection with fire sprinkler  
 764 systems, and tanks and pumps connected to fire sprinkler  
 765 systems.  
 766 (13) ~~(11)~~ "Firesafety inspector" means ~~is~~ an individual  
 767 who holds a current and valid Fire Safety Inspector Certificate  
 768 of Compliance issued ~~certified~~ by the division ~~State Fire~~  
 769 ~~Marshall~~ under s. 633.216 ~~633.001~~ and who is officially assigned  
 770 the duties of conducting firesafety inspections of buildings and  
 771 facilities on a recurring or regular basis on behalf of the  
 772 state or any county, municipality, or special district with fire  
 773 safety responsibilities.  
 774 (14) "Fire service provider" means a municipality or  
 775 county, the state, or any political subdivision of the state,  
 776 including authorities and special districts, employing  
 777 firefighters or utilizing volunteer firefighters to provide fire  
 778 extinguishment or fire prevention services for the protection of  
 779 life and property. The term includes any organization under  
 780 contract or other agreement with such entity to provide such  
 781 services.  
 782 (15) ~~(12)~~ "Handling" means touching, holding, taking up,  
 783 moving, controlling, or otherwise affecting with the hand or by  
 784 any other agency.

813 include a roadway or driveway upon grounds owned by a private  
 814 person.  
 815 (17) "Hot zone" means the area immediately around an  
 816 incident where serious threat of harm exists, which includes the  
 817 collapse zone for a structure fire.  
 818 (18) (45) "Keeping" means possessing, holding, retaining,  
 819 maintaining, or having habitually in stock for sale.  
 820 (19) (46) "Layout" as used in this chapter means the layout  
 821 of risers, cross mains, branch lines, sprinkler heads, sizing of  
 822 pipe, hanger locations, and hydraulic calculations in accordance  
 823 with the design concepts established through the provisions of  
 824 the Responsibility Rules adopted by the Board of Professional  
 825 Engineers.  
 826 (20) (47) "Manufacture" means the compounding, combining,  
 827 producing, or making of anything or the working of anything by  
 828 hand, by machinery, or by any other agency into forms suitable  
 829 for use.  
 830 (21) (48) A "Minimum firesafety standard" means ~~is~~ a  
 831 requirement or group of requirements adopted pursuant to s.  
 832 633.208 ~~633.025~~ by a county, municipality, or special district  
 833 with firesafety responsibilities, or by the State Fire Marshal  
 834 pursuant to s. 394.879, for the protection of life and property  
 835 from loss by fire which shall be met, as a minimum, by every  
 836 occupancy, facility, building, structure, premises, device, or  
 837 activity to which it applies.  
 838 (22) "Minimum Standards Course" means training of at least  
 839 360 hours as prescribed by rule adopted by the division, which  
 840 is required to obtain a Firefighter Certificate of Compliance

785 ~~(13)(a) For the purpose of s. 633.085(1), the term "high-~~  
 786 ~~hazard occupancy" means any building or structure.~~  
 787 ~~1. that contains combustible or explosive matter or~~  
 788 ~~flammable conditions dangerous to the safety of life or~~  
 789 ~~property.~~  
 790 ~~2. in which persons receive educational instruction.~~  
 791 ~~3. in which persons reside, excluding private dwellings.~~  
 792 ~~4. containing three or more floor levels.~~  
 793  
 794 ~~Such buildings or structures include, but are not limited to,~~  
 795 ~~all hospitals and residential health care facilities, nursing~~  
 796 ~~homes and other adult care facilities, correctional or detention~~  
 797 ~~facilities, public schools, public lodging establishments,~~  
 798 ~~migrant labor camp, residential child care facilities, and~~  
 799 ~~self-service gasoline stations.~~  
 800 ~~(b) For the purpose of this subsection, the term "high-~~  
 801 ~~hazard occupancy" does not include any residential condominium~~  
 802 ~~where the declaration of condominium or the bylaws provide that~~  
 803 ~~the rental of units shall not be permitted for less than 90~~  
 804 ~~days.~~  
 805 (16) (44) "Highway" means every way or place of whatever  
 806 nature within the state open to the use of the public, as a  
 807 matter of right, for purposes of vehicular traffic and includes  
 808 public streets, alleys, roadways, or driveways upon grounds of  
 809 colleges, universities, and institutions and other ways open to  
 810 travel by the public, notwithstanding that the same have been  
 811 temporarily closed for the purpose of construction,  
 812 reconstruction, maintenance, or repair. The term does not

841 under s. 633.408.

842 ~~(23)(49)~~ "Motor vehicle" means any device propelled by

843 power other than muscular power in, upon, or by which any

844 individual ~~person~~ or property is or may be transported or drawn

845 upon a highway, except a device moved or used exclusively upon

846 stationary rails or tracks.

847 ~~(24)(20)~~ "Point-of-service" means the point at which the

848 underground piping for a fire protection system as defined in

849 this section using water as the extinguishing agent becomes used

850 exclusively for the fire protection system.

851 ~~(25)(21)(a)~~ ~~★~~ "Preengineered system" means ~~is~~ a fire

852 suppression system which:

853 1. Uses any of a variety of extinguishing agents.

854 2. Is designed to protect specific hazards.

855 3. Must be installed according to pretested limitations

856 and configurations specified by the manufacturer and applicable

857 National Fire Protection Association (NFPA) standards. Only

858 those chapters within the National Fire Protection Association

859 standards that pertain to servicing, recharging, repairing,

860 installing, hydrotesting, or inspecting any type of

861 preengineered fire extinguishing system may be used.

862 4. Must be installed using components specified by the

863 manufacturer or components that are listed as equal parts by a

864 nationally recognized testing laboratory such as Underwriters

865 Laboratories, Inc., or Factory Mutual Laboratories, Inc.

866 5. Must be listed by a nationally recognized testing

867 laboratory.

868 (b) Preengineered systems consist of and include all of

869 the components and parts providing fire suppression protection,

870 but do not include the equipment being protected, and may

871 incorporate special nozzles, flow rates, methods of application,

872 pressurization levels, and quantities of agents designed by the

873 manufacturer for specific hazards.

874 ~~(26)(22)~~ "Private carrier" means any motor vehicle,

875 aircraft, or vessel operating intrastate in which there is

876 identity of ownership between freight and carrier.

877 ~~(27)(23)~~ "Sale" means the act of selling; the act whereby

878 the ownership of property is transferred from one person to

879 another for a sum of money or, loosely, for any consideration.

880 The term includes the delivery of merchandise with or without

881 consideration.

882 ~~(28)(24)~~ "Special state firesafety inspector" means an

883 individual officially assigned to the duties of conducting

884 firesafety inspections required by law on behalf of or by an

885 agency of the state having authority for inspections other than

886 the division ~~of State Fire Marshal~~.

887 ~~(29)(25)~~ ~~★~~ "Sprinkler system" means ~~is~~ a type of fire

888 protection system, either manual or automatic, using water as an

889 extinguishing agent and installed in accordance with applicable

890 National Fire Protection Association standards.

891 ~~(30)(26)~~ "Storing" means accumulating, laying away, or

892 depositing for preservation or as a reserve fund in a store, or

893 warehouse, or other source from which supplies may be drawn or

894 within which they may be deposited. The term is limited in

895 meaning and application to storage having a direct relationship

896 to transportation.

897 (31) "Support services" means those activities that a fire  
 898 service provider has trained an individual to perform safely  
 899 outside the hot zone of an emergency scene, including pulling  
 900 hoses, opening and closing fire hydrants, driving and operating  
 901 apparatus, carrying tools, carrying or moving equipment,  
 902 directing traffic, manning a resource pool, or similar  
 903 activities.  
 904 (32) "Suspension" means the temporary withdrawal of a  
 905 license, certificate, or permit issued pursuant to this chapter.  
 906 (33) ~~(27)~~ "Transportation" means the conveying or carrying  
 907 of property from one place to another by motor vehicle (except a  
 908 motor vehicle subject to the provisions of s. 316.302),  
 909 aircraft, or vessel, subject to such limitations as are set  
 910 forth in s. 552.12, in which only the motor vehicles, aircraft,  
 911 or vessels of the Armed Forces and other federal agencies are  
 912 specifically exempted.  
 913 (34) ~~(28)~~ "Uniform firesafety standard" means ~~is~~ a  
 914 requirement or group of requirements for the protection of life  
 915 and property from loss by fire which shall be met by every  
 916 building and structure specified in s. 633.206 ~~633-022(1)~~, and  
 917 is neither weakened nor exceeded by law, rule, or ordinance of  
 918 any other state agency or political subdivision or county,  
 919 municipality, or special district with firesafety  
 920 responsibilities.  
 921 (35) ~~(29)~~ "Use" means application, employment; that  
 922 enjoyment of property which consists of its employment,  
 923 occupation, exercise, or practice.  
 924 (36) "Volunteer firefighter" means an individual who holds

925 a current and valid Volunteer Firefighter Certificate of  
 926 Completion issued by the division under s. 633.408.  
 927 Section 5. Section 633.01, Florida Statutes, is  
 928 transferred and renumbered as subsections (1) through (7) of  
 929 section 633.104, Florida Statutes, and subsections (1), (3),  
 930 (5), (6), and (7) of that section are amended, subsection (2) of  
 931 section 633.517, Florida Statutes, is transferred and renumbered  
 932 as subsection (8) of that section and amended, and a new  
 933 subsection (9) is added to that section, to read:  
 934 633.104 ~~633.01~~ State Fire Marshal; authority: ~~powers and~~  
 935 duties; rules.-  
 936 (1) The Chief Financial Officer is designated as "State  
 937 Fire Marshal." The State Fire Marshal has authority to adopt  
 938 rules pursuant to ss. 120.536(1) and 120.54 to implement the  
 939 provisions of this chapter ~~conferring powers or duties upon the~~  
 940 ~~department~~. Rules shall be in substantial conformity with  
 941 generally accepted standards of firesafety; shall take into  
 942 consideration the direct supervision of children in  
 943 nonresidential child care facilities; and shall balance and  
 944 temper the need of the State Fire Marshal to protect all  
 945 Floridians from fire hazards with the social and economic  
 946 inconveniences that may be caused or created by the rules. The  
 947 department shall adopt the Florida Fire Prevention Code ~~and the~~  
 948 ~~Life-Safety Code~~.  
 949 (2) Subject to the limitations of subsection (1), it is  
 950 the intent of the Legislature that the State Fire Marshal shall  
 951 have the responsibility to minimize the loss of life and  
 952 property in this state due to fire. The State Fire Marshal shall

981 public.  
 982 (5) It is the intent of the Legislature that there are to  
 983 be no conflicting requirements between the Florida Fire  
 984 Prevention Code ~~and the Life Safety Code authorized by this~~  
 985 ~~chapter~~ and the provisions of the Florida Building Code or  
 986 conflicts in their enforcement and interpretation. Potential  
 987 conflicts shall be resolved through coordination and cooperation  
 988 of the State Fire Marshal and the Florida Building Commission as  
 989 provided by this chapter and part IV of chapter 553.  
 990 (6) Only the State Fire Marshal may issue, and, when  
 991 requested in writing by any substantially affected person or a  
 992 local enforcing agency, the State Fire Marshal shall issue  
 993 declaratory statements pursuant to s. 120.565 relating to the  
 994 Florida Fire Prevention Code ~~and the Life Safety Code~~.  
 995 (7) The State Fire Marshal, in consultation with the  
 996 Department of Education, shall adopt and administer rules  
 997 prescribing standards for the safety and health of occupants of  
 998 educational and ancillary facilities pursuant to ss. 633.206  
 999 ~~633.022~~, 1013.12, 1013.37, and 1013.371. In addition, in any  
 1000 county, municipality, or special district that does not employ  
 1001 or appoint a firesafety inspector certified under s. 633.216  
 1002 ~~633.021~~, the State Fire Marshal shall assume the duties of the  
 1003 local county, municipality, or independent special fire control  
 1004 district as defined in s. 191.003 with respect to firesafety  
 1005 inspections of educational property required under s.  
 1006 1013.12(3)(b), and the State Fire Marshal may take necessary  
 1007 corrective action as authorized under s. 1013.12(7).  
 1008 ~~633.517. Authority of State Fire Marshal to adopt rules~~

953 enforce all laws and provisions of this chapter, and any rules  
 954 adopted pursuant thereto, relating to:  
 955 (a) The prevention of fire and explosion through the  
 956 regulation of conditions which could cause fire or explosion,  
 957 the spread of fire, and panic resulting therefrom;  
 958 (b) Installation and maintenance of fire alarm systems and  
 959 fire protection systems, including fire suppression systems,  
 960 fire-extinguishing equipment, and fire sprinkler systems;  
 961 (c) 1. Servicing, repairing, recharging, testing, marking,  
 962 inspecting, installing, maintaining, and tagging of fire  
 963 extinguishers, preengineered systems, and individually designed  
 964 fire protection systems;  
 965 2. The training and licensing of persons engaged in the  
 966 business of servicing, repairing, recharging, testing, marking,  
 967 inspecting, installing, maintaining, and tagging fire  
 968 extinguishers, preengineered systems, and individually designed  
 969 fire protection systems;  
 970 (d) The maintenance of fire cause and loss records; and  
 971 (e) Suppression of arson and the investigation of the  
 972 cause, origin, and circumstances of fire.  
 973 (3) The State Fire Marshal shall establish by rule  
 974 guidelines and procedures for ~~the~~ renewal of firesafety  
 975 inspector requirements for certification every 4 years.  
 976 (4) It is the intent of the Legislature that the rules  
 977 promulgated by the State Fire Marshal pursuant to this section  
 978 be enforced in such a manner as to prohibit the displacement of  
 979 currently placed mobile homes unless there is a threat of  
 980 imminent danger to the health, safety, or welfare of the general

1037 violates any provision under, this chapter or any rule  
 1038 authorized by this chapter.  
 1039 ~~(2)(a)~~ If the State Fire Marshal finds that one or more  
 1040 grounds exist for the suspension, revocation, or refusal to  
 1041 issue, renew, or continue any license, certificate, or permit  
 1042 issued under this chapter, the State Fire Marshal may, in his or  
 1043 her ~~the~~ discretion, in lieu of the suspension, revocation, or  
 1044 refusal to issue, renew, or continue, and, except on a second  
 1045 offense or when the suspension, revocation, or refusal to issue,  
 1046 renew, or continue is mandatory, impose upon the licensee,  
 1047 certificateholder, or permittee one or more of the following:  
 1048 (a) An administrative fine not to exceed \$1,000 for each  
 1049 violation, and not to exceed a total of \$10,000 in any one  
 1050 proceeding.  
 1051 (b) Probation for a period not to exceed 2 years, as  
 1052 specified by the State Fire Marshal in her or his order.  
 1053 ~~(3)(a)~~ The State Fire Marshal may allow the licensee,  
 1054 certificateholder, or permittee a reasonable period, not to  
 1055 exceed 30 days, within which to pay to the State Fire Marshal  
 1056 the amount of the fine. If the licensee, certificateholder, or  
 1057 permittee fails to pay the administrative fine in its entirety  
 1058 to the State Fire Marshal within such period, the license,  
 1059 permit, or certificate shall stand suspended until payment of  
 1060 the administrative fine.  
 1061 ~~633.167. Probation.~~  
 1062 ~~(4) If the State Fire Marshal finds that one or more~~  
 1063 ~~grounds exist for the suspension, revocation, or refusal to~~  
 1064 ~~issue, renew, or continue any license, certificate, or permit~~

1009 ~~administer oaths, and take testimony.~~  
 1010 ~~(4) The State Fire Marshal is authorized, with the advice~~  
 1011 ~~of the board, to adopt rules pursuant to ss. 120.536(1) and~~  
 1012 ~~120.54 to implement the provisions of this act.~~  
 1013 (8)(a) The State Fire Marshal or her or his duly appointed  
 1014 hearing officer may administer oaths and take testimony about  
 1015 all matters within the jurisdiction of this chapter ~~act~~. Chapter  
 1016 120 governs hearings conducted by or on behalf of the State Fire  
 1017 Marshal.  
 1018 (9) The State Fire Marshal may enter into a contract with  
 1019 any qualified public entity or private company in accordance  
 1020 with chapter 287 to provide examinations for any applicant for  
 1021 any examination administered under the jurisdiction of the State  
 1022 Fire Marshal. The State Fire Marshal may direct payments from  
 1023 each applicant for each examination directly to such contracted  
 1024 entity or company.  
 1025 Section 6. Section 633.163, Florida Statutes, is  
 1026 transferred, renumbered as subsections (1), (2), and (3) of  
 1027 section 633.106, Florida Statutes, and amended, and section  
 1028 633.167, Florida Statutes, is transferred, renumbered as  
 1029 subsection (4) of that section, and amended, to read:  
 1030 633.106 ~~633.163~~ State Fire Marshal; disciplinary  
 1031 authority; administrative fine and probation in lieu of  
 1032 suspension, revocation, or refusal to issue a license, permit,  
 1033 or certificate.—  
 1034 (1) The State Fire Marshal is authorized to deny, suspend,  
 1035 or revoke the license, certificate, or permit of any individual  
 1036 who does not meet the qualifications established by, or who



1065 ~~issued under this chapter, the State Fire Marshal may, in her or~~  
 1066 ~~his discretion, except when an administrative fine is not~~  
 1067 ~~permissible under this chapter or when the suspension~~  
 1068 ~~revocation, or refusal is mandatory, in lieu of suspension~~  
 1069 ~~revocation, or refusal to issue, renew, or continue or, in~~  
 1070 ~~connection with any administrative fine imposed, place the~~  
 1071 ~~offending licensee, certificateholder, or permittee on probation~~  
 1072 ~~for a period not to exceed 2 years, as specified by the State~~  
 1073 ~~Fire Marshal in her or his order.~~

1074 (4) ~~(2)~~ As a condition to probation or in connection  
 1075 therewith, the State Fire Marshal may specify in her or his  
 1076 order reasonable terms and conditions to be fulfilled by the  
 1077 probationer during the probation period. If during the probation  
 1078 period the State Fire Marshal has good cause to believe that the  
 1079 probationer has violated any of the terms and conditions, she or  
 1080 he shall suspend, revoke, or refuse to issue, renew, or continue  
 1081 the license, certificate, or permit of the probationer, as upon  
 1082 the original ground or grounds referred to in subsection (2), ~~(4)~~.  
 1083 Section 7. Section 633.15, Florida Statutes, is  
 1084 transferred and renumbered as section 633.108, Florida Statutes.  
 1085 Section 8. Section 633.101, Florida Statutes, is  
 1086 transferred and renumbered as subsections (1), (2), (3), and (4)  
 1087 of section 633.112, Florida Statutes, and subsections (2), (3),  
 1088 and (4) are amended, section 633.18, Florida Statutes, is  
 1089 transferred and renumbered as subsection (5) of that section,  
 1090 section 633.03, Florida Statutes, is transferred and renumbered  
 1091 as subsection (6) of that section and amended, and section  
 1092 633.111, Florida Statutes, is transferred and renumbered as

1093 subsections (7) and (8) of that section and amended, to read:  
 1094 633.112 ~~633.104~~ State Fire Marshal; hearings;  
 1095 investigations; recordkeeping ~~investigatory powers of State Fire~~  
 1096 ~~Marshal; costs of service and witness fees.~~  
 1097 (1) The State Fire Marshal may in his or her discretion  
 1098 take or cause to be taken the testimony on oath of all persons  
 1099 whom he or she believes to be cognizant of any facts in relation  
 1100 to matters under investigation.

1101 (2) If the State Fire Marshal shall be of the opinion that  
 1102 there is sufficient evidence to charge any person with an  
 1103 offense, he or she shall cause the arrest of such person and  
 1104 shall furnish to the prosecuting officer of any court having  
 1105 jurisdiction of said offense all information obtained by him or  
 1106 her, including a copy of all pertinent and material testimony  
 1107 taken, together with the names and addresses of all witnesses.  
 1108 In the conduct of such investigations, the State Fire Marshal  
 1109 ~~fire marshal~~ may request such assistance as may reasonably be  
 1110 given by such prosecuting officers and other local officials.  
 1111 (3) The State Fire Marshal ~~fire marshal~~ may summon and  
 1112 compel the attendance of witnesses before him or her to testify  
 1113 in relation to any matter ~~matter~~ which is, by the provisions of  
 1114 this chapter, a subject of inquiry and investigation, and he or  
 1115 she may require the production of any book, paper, or document  
 1116 deemed pertinent thereto by him or her, and may seize furniture  
 1117 and other personal property to be held for evidence.

1118 (4) All persons so summoned and so testifying shall be  
 1119 entitled to the same witness fees and mileage as provided for  
 1120 witnesses testifying in the circuit courts of this state, and

1121 officers serving subpoenas or orders of the State Fire Marshal  
 1122 ~~fire marshal~~ shall be paid in like manner for like services in  
 1123 such courts, from the funds herein provided.  
 1124 ~~633.18 State Fire Marshal hearings and investigations~~  
 1125 ~~subpoena of witnesses; orders of circuit court.~~  
 1126 (5) Any agent designated by the State Fire Marshal for  
 1127 such purposes, may hold hearings, sign and issue subpoenas,  
 1128 administer oaths, examine witnesses, receive evidence, and  
 1129 require by subpoena the attendance and testimony of witnesses  
 1130 and the production of such accounts, records, memoranda or other  
 1131 evidence, as may be material for the determination of any  
 1132 complaint or conducting any inquiry or investigation under this  
 1133 law. In case of disobedience to a subpoena, the State Fire  
 1134 Marshal or his or her agent may invoke the aid of any court of  
 1135 competent jurisdiction in requiring the attendance and testimony  
 1136 of witnesses and the production of accounts, records, memoranda  
 1137 or other evidence and any such court may in case of contumacy or  
 1138 refusal to obey a subpoena issued to any person, issue an order  
 1139 requiring the person to appear before the State Fire Marshal's  
 1140 agent or produce accounts, records, memoranda or other evidence,  
 1141 as so ordered, or to give evidence touching any matter pertinent  
 1142 to any complaint or the subject of any inquiry or investigation,  
 1143 and any failure to obey such order of the court shall be  
 1144 punished by the court as a contempt thereof.

1145 ~~633.03 investigation of fire reports.~~  
 1146 (6) The State Fire Marshal shall investigate the cause,  
 1147 origin, and circumstances of every fire or explosion occurring  
 1148 in this state wherein property has been damaged or destroyed

1149 where there is probable cause to believe that the fire or  
 1150 explosion was the result of carelessness or design. Report of  
 1151 all such investigations shall be made on approved forms to be  
 1152 furnished by the State Fire Marshal ~~fire marshal~~.

1153 ~~633.111 State Fire Marshal to keep records of fires~~

1154 ~~reports of agents.~~

1155 (7) The State Fire Marshal shall keep ~~in her or his office~~  
 1156 a record of all fires and explosions occurring in this state  
 1157 upon which she or he had caused an investigation to be made and  
 1158 all facts concerning the same. These records, obtained or  
 1159 prepared by the State Fire Marshal pursuant to her or his  
 1160 investigation, include documents, papers, letters, maps,  
 1161 diagrams, tapes, photographs, films, sound recordings, and  
 1162 evidence. These records are confidential and exempt from the  
 1163 provisions of s. 119.07(1) until the investigation is completed  
 1164 or ceases to be active. For purposes of this section, an  
 1165 investigation is considered "active" while such investigation is  
 1166 being conducted by the department with a reasonable, good faith  
 1167 belief that it may lead to the filing of administrative, civil,  
 1168 or criminal proceedings. An investigation does not cease to be  
 1169 active if the department is proceeding with reasonable dispatch,  
 1170 and there is a good faith belief that action may be initiated by  
 1171 the department or other administrative or law enforcement  
 1172 agency. Further, these documents, papers, letters, maps,  
 1173 diagrams, tapes, photographs, films, sound recordings, and  
 1174 evidence relative to the subject of an investigation shall not  
 1175 be subject to subpoena until the investigation is completed or  
 1176 ceases to be active, unless the State Fire Marshal consents.



1177 These records shall be made daily from the reports furnished the  
 1178 State Fire Marshal by her or his agents or others.  
 1179 (8) Whenever the State Fire Marshal releases an  
 1180 investigative report, any person requesting a copy of the report  
 1181 shall pay in advance, and the State Fire Marshal shall collect  
 1182 in advance, notwithstanding the provisions of s. 624.501(19)(a)  
 1183 and (b), a fee of \$10 for the copy of the report, which fee  
 1184 shall be deposited into the Insurance Regulatory Trust Fund. The  
 1185 State Fire Marshal may release the report without charge to any  
 1186 state attorney or to any law enforcement agency or fire  
 1187 department assisting in the investigation.  
 1188 Section 9. Section 633.02, Florida Statutes, is  
 1189 transferred, renumbered as subsection (1) of section 633.114,  
 1190 Florida Statutes, and amended, and section 633.13, Florida  
 1191 Statutes, is transferred and renumbered as subsection (2) of  
 1192 that section, to read:  
 1193 633.114 State Fire Marshal Agents; authority:  
 1194 ~~power and~~ duties; compensation.—  
 1195 (1) The State Fire Marshal shall appoint such agents as  
 1196 may be necessary to carry out effectively the provisions of this  
 1197 chapter, who shall be reimbursed for travel expenses as provided  
 1198 in s. 112.061, in addition to their salary, when traveling or  
 1199 making investigations in the performance of their duties. Such  
 1200 agents shall be at all times under the direction and control of  
 1201 the State Fire Marshal ~~fire marshal~~, who shall fix their  
 1202 compensation, and all orders shall be issued in the State Fire  
 1203 Marshal's ~~fire marshal's~~ name and by her or his authority.  
 1204 ~~633.13 State Fire Marshal; authority of agents.—~~

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(2) The authority given the State Fire Marshal under this  
 law may be exercised by his or her agents, either individually  
 or in conjunction with any other state or local official charged  
 with similar responsibilities.  
 Section 10. Section 633.14, Florida Statutes, is  
 transferred and renumbered as section 633.116, Florida Statutes.  
 Section 11. Section 633.121, Florida Statutes, is  
 transferred, renumbered as section 633.118, Florida Statutes,  
 and amended to read:  
633.118 633.121 Persons authorized to enforce laws and  
 rules of State Fire Marshal.—The chiefs of county, municipal,  
 and special-district fire service providers ~~departments~~; other  
 fire service provider ~~department~~ personnel designated by their  
 respective chiefs; and personnel designated by local governments  
 having no organized fire service providers ~~departments~~ are  
 authorized to enforce this chapter law and all rules prescribed  
 by the State Fire Marshal within their respective jurisdictions.  
 Such personnel acting under the authority of this section shall  
 be deemed to be agents of their respective jurisdictions, not  
 agents of the State Fire Marshal.  
 Section 12. Section 633.151, Florida Statutes, is  
 transferred, renumbered as section 633.122, Florida Statutes,  
 and amended to read:  
633.122 633.151 Impersonating State Fire Marshal,  
firefighter firefighter, volunteer firefighter, or firesafety  
 inspector; criminal penalties.—A person who falsely assumes or  
 pretends to be the State Fire Marshal, an agent of the division  
~~of State Fire Marshal~~, a firefighter ~~as defined in s. 112.01~~, a

1233 volunteer firefighter, or a firesafety inspector by identifying  
 1234 himself or herself as the State Fire Marshal, an agent of the  
 1235 division, a firefighter, a volunteer firefighter, or a  
 1236 firesafety inspector, by wearing a uniform or presenting or  
 1237 displaying a badge as credentials that would cause a reasonable  
 1238 person to believe that he or she is a State Fire Marshal, an  
 1239 agent of the division, a firefighter, a volunteer firefighter,  
 1240 or firesafety inspector commits ~~and who sets so much to require~~  
 1241 ~~a person to aid or assist him or her in any matter relating to~~  
 1242 ~~the duties of the State Fire Marshal, an agent of the division~~  
 1243 ~~a firefighter, or a firesafety inspector is guilty of a felony~~  
 1244 of the third degree, punishable as provided in ss. 775.082 and  
 1245 775.083 or, if the impersonation occurs during the commission of  
 1246 a separate felony by that person, ~~is guilty of~~ a felony  
 1247 of the first degree, punishable as provided in ss. 775.082 and  
 1248 775.083.  
 1249 Section 13. Section 633.171, Florida Statutes, is  
 1250 transferred, renumbered as section 633.124, Florida Statutes,  
 1251 and amended to read:  
 1252 633.124 ~~633.171~~ Penalty for violation of law, rule, or  
 1253 order to cease and desist or for failure to comply with  
 1254 corrective order.—  
 1255 (1) Any person who violates any provision of this chapter  
 1256 ~~law,~~ any order or rule of the State Fire Marshal, or any order  
 1257 to cease and desist or to correct conditions issued under this  
 1258 chapter commits a misdemeanor of the second degree, punishable  
 1259 as provided in s. 775.082 or s. 775.083.  
 1260 (2) It is a misdemeanor of the first degree, punishable as

1261 provided in s. 775.082 or s. 775.083, to intentionally or  
 1262 willfully:  
 1263 (a) Render a fire protection system, fire extinguisher, or  
 1264 preengineered system required by statute or by rule inoperative  
 1265 except during such time as the fire protection system, fire  
 1266 extinguisher, or preengineered system is being serviced,  
 1267 hydrotested, tested, repaired, or recharged, except pursuant to  
 1268 court order.  
 1269 (b) Obliterate the serial number on a fire extinguisher  
 1270 for purposes of falsifying service records.  
 1271 (c) Improperly service, recharge, repair, hydrotest, test,  
 1272 or inspect a fire extinguisher or preengineered system.  
 1273 (d) Use the license, certificate, or permit number of  
 1274 another person.  
 1275 (e) Hold a license, certificate, or permit and allow  
 1276 another person to use the license, certificate, or permit or ~~said~~ permit  
 1277 ~~number.~~  
 1278 (f) Use, or allow permit the use of, any license,  
 1279 certificate, or permit by any individual or organization other  
 1280 than the one to whom the license, certificate, or permit is  
 1281 issued.  
 1282 (3) (a) As used in this subsection, the term:  
 1283 1. "Pyrotechnic display" means a special effect created  
 1284 through the use of a pyrotechnic material or pyrotechnic device.  
 1285 2. "Pyrotechnic device" means any device containing  
 1286 pyrotechnic materials and capable of producing a special effect.  
 1287 3. "Pyrotechnic material" means a chemical mixture used to  
 1288 produce visible or audible effects by combustion, deflagration,

1289 or detonation when such chemical mixture consists predominantly  
 1290 of solids capable of producing a controlled, self-sustaining,  
 1291 and self-contained exothermic chemical reaction that results in  
 1292 heat, gas, sound, light, or a combination of such effects,  
 1293 without requiring external oxygen.  
 1294 (b) A person who initiates a pyrotechnic display within  
 1295 any structure commits a felony of the third degree, punishable  
 1296 as provided in s. 775.082, s. 775.083, or s. 775.084, unless:  
 1297 1. The structure has a fire protection system installed in  
 1298 compliance with s. 633.334 ~~633.065~~.  
 1299 2. The owner of the structure has authorized in writing  
 1300 the pyrotechnic display.  
 1301 3. If the local jurisdiction requires a permit for the use  
 1302 of a pyrotechnic display in an occupied structure, such permit  
 1303 has been obtained and all conditions of the permit complied with  
 1304 or, if the local jurisdiction does not require a permit for the  
 1305 use of a pyrotechnic display in an occupied structure, the  
 1306 person initiating the display has complied with National Fire  
 1307 Protection Association, Inc., Standard 1126, 2001 Edition,  
 1308 Standard for the Use of Pyrotechnics before a Proximate  
 1309 Audience.  
 1310 (c) This subsection shall not be construed to preclude  
 1311 prosecution for a more general offense resulting from the same  
 1312 criminal transaction or episode. This subsection does not apply  
 1313 to the manufacture, distribution, sale at wholesale or retail,  
 1314 or seasonal sale of products regulated under chapter 791 if the  
 1315 products are not used in an occupied structure.  
 1316 Section 14. Section 633.175, Florida Statutes, is

1317 transferred and renumbered as section 633.126, Florida Statutes,  
 1318 and subsections (1), (2), (3), (6), and (9) of that section are  
 1319 amended, to read:  
 1320 633.126 ~~633.175~~ Investigation of fraudulent insurance  
 1321 claims and crimes; immunity of insurance companies supplying  
 1322 information.—  
 1323 (1) (a) As used in this section, the term "consultant"  
 1324 means any individual or entity, or employee of the individual or  
 1325 entity, retained by an insurer to assist in the investigation of  
 1326 a fire, explosion, or suspected fraudulent insurance act.  
 1327 (b) The State Fire Marshal or an agent appointed pursuant  
 1328 to s. 633.114 ~~633.02~~, any law enforcement officer as defined in  
 1329 s. 111.065, any law enforcement officer of a federal agency, or  
 1330 any fire service provider ~~department~~ official who is engaged in  
 1331 the investigation of a fire or explosion loss may request any  
 1332 insurance company or its agent, adjuster, employee, or attorney,  
 1333 investigating a claim under an insurance policy or contract with  
 1334 respect to a fire or explosion to release any information  
 1335 whatsoever in the possession of the insurance company or its  
 1336 agent, adjuster, employee, or attorney relative to a loss from  
 1337 that fire or explosion. The insurance company shall release the  
 1338 available information to and cooperate with any official  
 1339 authorized to request such information pursuant to this section.  
 1340 The information shall include, but shall not be limited to:  
 1341 1. ~~1.~~ Any insurance policy relevant to a loss under  
 1342 investigation and any application for such a policy.  
 1343 2. ~~2.~~ Any policy premium payment records.  
 1344 3. ~~3.~~ The records, reports, and all material pertaining to

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1345 any previous claims made by the insured with the reporting  
 1346 company.  
 1347 4. ~~4~~ Material relating to the investigation of the loss,  
 1348 including statements of any person, proof of loss, and other  
 1349 relevant evidence.  
 1350 5. ~~5~~ Memoranda, notes, and correspondence relating to the  
 1351 investigation of the loss in the possession of the insurance  
 1352 company or its agents, adjusters, employees, or attorneys.  
 1353 (2) If an insurance company has reason to suspect that a  
 1354 fire or explosion loss to its insured's real or personal  
 1355 property was caused by intentional ~~intentional~~ means, the company  
 1356 shall notify the State Fire Marshal and shall furnish her or him  
 1357 with all material acquired by the company during the course of  
 1358 its investigation. The State Fire Marshal may adopt rules to  
 1359 implement this subsection.  
 1360 (3) In the absence of fraud, bad faith, or malice, no  
 1361 representative of or consultant to an insurance company or of  
 1362 the National Insurance Crime Bureau employed to adjust or  
 1363 investigate losses caused by fire or explosion shall be liable  
 1364 for damages in a civil action for furnishing information  
 1365 concerning fires or explosion suspected to be other than  
 1366 accidental to investigators employed by other insurance  
 1367 companies or the National Insurance Crime Bureau.  
 1368 (4) No insurance company or person who furnishes  
 1369 information on its behalf shall be liable for damages in a civil  
 1370 action or subject to criminal prosecution for any oral or  
 1371 written statement made or any other action taken that is  
 1372 necessary and required by the provisions of this section.

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1373 (5) At such time as the release of the investigative  
 1374 records is required by law, the official or agency in possession  
 1375 of such records shall provide written notice to the insurance  
 1376 company providing the information and to all parties, at least  
 1377 10 days prior to releasing such records. Official, departmental,  
 1378 or agency personnel may discuss such matters with other  
 1379 official, departmental, or agency personnel, and any insurance  
 1380 company complying with this section, and may share such  
 1381 information, if such discussion is necessary to enable the  
 1382 orderly and efficient conduct of the investigation. These  
 1383 discussions are confidential and exempt from the provisions of  
 1384 s. 286.011.  
 1385 (6) The actions of an insurance company or of its agents,  
 1386 employees, adjusters, consultants, or attorneys, in complying  
 1387 with the statutory obligation of this section shall in no way be  
 1388 construed by a court as a waiver or abandonment of any privilege  
 1389 or confidentiality of attorney work product, attorney-client  
 1390 communication, or such other privilege or immunity as is  
 1391 provided by law.  
 1392 (7) Any official described in subsection (1) may be  
 1393 required to testify as to any information in her or his  
 1394 possession regarding an insurance loss in any civil action in  
 1395 which any person seeks recovery under a policy against an  
 1396 insurance company for an insurance loss, subject to the  
 1397 provisions of subsection (6).  
 1398 (8) No person may intentionally refuse to release any  
 1399 information requested pursuant to this section.  
 1400 (9) Any person who willfully violates the provisions of

1429 ~~instructor, and facilities for training firefighters and~~  
 1430 ~~firefighter recruit~~ including a rule requiring each that an  
 1431 instructor to ~~not~~ complete 40 hours of continuing education  
 1432 every 4 3 years in order to maintain his or her certification  
 1433 ~~the approval of the department.~~  
 1434 (e) Issue certificates of competency to persons who, by  
 1435 reason of experience and completion of basic inservice training,  
 1436 advanced education, or specialized training, are especially  
 1437 qualified for particular aspects or classes of firefighting  
 1438 ~~firefighter~~ duties.  
 1439 (f) Establish, by rule, minimum training qualifications  
 1440 for persons serving as firesafety coordinators for their  
 1441 respective departments of state government and certify all  
 1442 persons who satisfy such qualifications.  
 1443 (g) Establish a uniform lesson plan to be followed by  
 1444 firesafety instructors in the training of state employees in  
 1445 firesafety and emergency evacuation procedures.  
 1446 (h) Have complete jurisdiction over, and complete  
 1447 management and control of, the Florida State Fire College and be  
 1448 invested with full power and authority to make all rules and  
 1449 regulations necessary for the governance of said institution.  
 1450 (i) Appoint a superintendent of the Florida State Fire  
 1451 College and such other instructors, experimental helpers, and  
 1452 laborers as may be necessary and remove the same as in the  
 1453 division's ~~its~~ judgment and discretion may be best, fix their  
 1454 compensation, and provide for their payment.  
 1455 (j) Have full management, possession, and control of the  
 1456 lands, buildings, structures, and property belonging to the

1401 this section commits is guilty of a misdemeanor of the first  
 1402 degree, punishable as provided in s. 775.082 or s. 775.083.  
 1403 Section 15. Section 633.45, Florida Statutes, is  
 1404 transferred, renumbered as section 633.128, Florida Statutes,  
 1405 and amended to read:  
 1406 633.128 633.45 Division of State Fire Marshal; powers,  
 1407 duties.—  
 1408 (1) The division shall:  
 1409 (a) Establish, by rule, uniform minimum standards for the  
 1410 employment and training of firefighters and volunteer  
 1411 firefighters.  
 1412 (b) Establish, by rule, minimum curriculum requirements  
 1413 and criteria used to approve education or training providers,  
 1414 including ~~for~~ schools operated by or for any fire service  
 1415 provider, employing agency for the specific purpose of training  
 1416 individuals seeking to become a firefighter ~~recruit~~ or  
 1417 volunteer firefighter ~~firefighters.~~  
 1418 (c) Specify, by rule, standards for the approval, denial  
 1419 of approval, probation, suspension, and revocation of approval  
 1420 of education or training providers and facilities for training  
 1421 firefighters and volunteer firefighters. ~~Approve institution~~  
 1422 ~~instructor, and facilities for school operation by or for any~~  
 1423 ~~employing agency for the specific purpose of training~~  
 1424 ~~firefighters and firefighter recruit~~  
 1425 (d) Specify, by rule, standards for the certification,  
 1426 denial of certification, probation, and revocation of  
 1427 certification for instructors, ~~approval, denial of approval~~  
 1428 ~~probation, and revocation of approval of institution~~

1457 Florida State Fire College.  
 1458 (k) Provide for the courses of study and curriculum of the  
 1459 Florida State Fire College.  
 1460 (l) Make rules and regulations for the admission of  
 1461 trainees to the Florida State Fire College.  
 1462 (m) Visit and inspect the Florida State Fire College ~~and~~  
 1463 ~~every department thereof~~ and provide for the proper keeping of  
 1464 accounts and records thereof.  
 1465 (n) Make and prepare all necessary budgets of expenditures  
 1466 for the enlargement, proper furnishing, maintenance, support,  
 1467 and conduct of the Florida State Fire College.  
 1468 (o) Select and purchase all property, furniture, fixtures,  
 1469 and paraphernalia necessary for the Florida State Fire College.  
 1470 (p) Build, construct, change, enlarge, repair, and  
 1471 maintain any and all buildings or structures of the Florida  
 1472 State Fire College that may at any time be necessary for said  
 1473 institution and purchase and acquire all lands and property  
 1474 necessary for same, of every nature and description whatsoever.  
 1475 (q) Care for and maintain the Florida State Fire College  
 1476 and do and perform every other matter or thing requisite to the  
 1477 proper management, maintenance, support, and control of said  
 1478 institution, necessary or requisite to carry out fully the  
 1479 purpose of this chapter ~~and~~ and for raising it to, and  
 1480 maintaining it at, the proper efficiency and standard as  
 1481 required in and by the provisions of part IV ~~and~~ ~~633.43-633.49~~.  
 1482 (r) Issue a license, certificate, or permit of a specific  
 1483 class to an individual who successfully completes the training,  
 1484 education, and examination required under this chapter or by

1485 rule for such class of license, certificate, or permit.  
 1486 (2) The division, subject to the limitations and  
 1487 restrictions ~~elsewhere herein~~ imposed in this chapter, may:  
 1488 (a) Adopt rules and regulations for the administration of  
 1489 this chapter ~~and~~ ~~633.30-633.49~~ pursuant to chapter 120.  
 1490 (b) Adopt a seal and alter the same at its pleasure.  
 1491 (c) Sue and be sued.  
 1492 (d) Acquire any real or personal property by purchase,  
 1493 gift, or donation, and have water rights.  
 1494 (e) Exercise the right of eminent domain to acquire any  
 1495 property and lands necessary to the establishment, operation,  
 1496 and expansion of the Florida State Fire College.  
 1497 (f) Make contracts and execute necessary or convenient  
 1498 instruments.  
 1499 (g) Undertake by contract or contracts, or by its own  
 1500 agent and employees, and otherwise than by contract, any project  
 1501 or projects, and operate and maintain such projects.  
 1502 (h) Accept grants of money, materials, or property of any  
 1503 kind from a federal agency, private agency, county, city, town,  
 1504 corporation, partnership, or individual upon such terms and  
 1505 conditions as the grantor may impose.  
 1506 (i) Perform all acts and do all things necessary or  
 1507 convenient to carry out the powers granted herein and the  
 1508 purposes of this chapter ~~and~~ ~~633.30-633.49~~.  
 1509 (3) The title to all property referred to in part IV ~~and~~  
 1510 ~~633.43-633.49~~, however acquired, shall be vested in the  
 1511 department and shall only be transferred and conveyed by it.  
 1512 Section 16. Section 633.132, Florida Statutes, is created



1541 installer/repairer/inspector: \$90.  
 1542 11. Permit for a preengineered fire extinguishing system  
 1543 installer/repairer/inspector: \$120.  
 1544 12. Conversion of a fire equipment dealer's license to a  
 1545 different category: \$10 for each permit and license.  
 1546 (b) Pursuant to part IV of this chapter:  
 1547 1. Certificate of compliance: \$30.  
 1548 2. Certificate of competency: \$30.  
 1549 3. Renewal fee for a certificate of compliance,  
 1550 competency, or instruction: \$15.  
 1551 (c) Duplicate or change of address for any license,  
 1552 permit, or certificate: \$10.  
 1553 (2) All moneys collected by the State Fire Marshal  
 1554 pursuant to this chapter shall be deposited into the Insurance  
 1555 Regulatory Trust Fund.  
 1556 Section 17. Section 633.39, Florida Statutes, is  
 1557 transferred and renumbered as section 633.134, Florida Statutes.  
 1558 Section 18. Section 633.115, Florida Statutes, is  
 1559 transferred, renumbered as section 633.136, Florida Statutes,  
 1560 and amended to read:  
 1561 633.136 ~~633.115~~ Fire and Emergency Incident Information  
 1562 Reporting Program; duties; fire reports.--  
 1563 (1) (a) The Fire and Emergency Incident Information  
 1564 Reporting Program is created within the division of ~~State Fire~~  
 1565 ~~Marshall~~. The program shall:  
 1566 1. Establish and maintain an electronic communication  
 1567 system capable of transmitting fire and emergency incident  
 1568 information to and between fire protection agencies.

1513 to read:  
 1514 633.132 Fees.--  
 1515 (1) The division shall collect in advance the following  
 1516 fees which it deems necessary to be charged:  
 1517 (a) Pursuant to part III of this chapter:  
 1518 1. Contractor certificate initial application: \$300 for  
 1519 each class of certificate.  
 1520 2. Contractor biennial renewal fee: \$150 for each class of  
 1521 certificate.  
 1522 3. Contractor permit initial application fee: \$100 for  
 1523 each class of permit.  
 1524 4. Contractor permit biennial renewal fee: \$50 for each  
 1525 class of permit.  
 1526 5. Contractor examination or reexamination fee: \$100 for  
 1527 each class of certificate.  
 1528 6. Fire equipment dealer license:  
 1529 a. Class A: \$250.  
 1530 b. Class B: \$150.  
 1531 c. Class C: \$150.  
 1532 d. Class D: \$200.  
 1533 7. Fire equipment dealer or contractor application and  
 1534 renewal fee for an inactive license: \$75.  
 1535 8. Fire equipment dealer license or permit exam or  
 1536 reexamination: \$50.  
 1537 9. Reinspection fee for a dealer equipment inspection  
 1538 conducted by the State Fire Marshal under s. 633.304(1): \$50 for  
 1539 each reinspection.  
 1540 10. Permit for a portable fire extinguisher

1569 2. Initiate a Fire and Emergency Incident Information  
 1570 Reporting System that shall be responsible for:  
 1571 a. Receiving fire and emergency incident information from  
 1572 fire protection agencies.  
 1573 b. Preparing and disseminating annual reports to the  
 1574 Governor, the President of the Senate, the Speaker of the House  
 1575 of Representatives, fire protection agencies, and, upon request,  
 1576 the public. Each report shall include, but not be limited to,  
 1577 the information listed in the National Fire Incident Reporting  
 1578 System.  
 1579 c. Upon request, providing other states and federal  
 1580 agencies with fire and emergency incident data of this state.  
 1581 3. Adopt rules to effectively and efficiently implement,  
 1582 administer, manage, maintain, and use the Fire and Emergency  
 1583 Incident Information Reporting Program. The rules shall be  
 1584 considered minimum requirements and shall not preclude a fire  
 1585 protection agency from implementing its own requirements which  
 1586 shall not conflict with the rules of the division ~~of State Fire~~  
 1587 ~~Marshal~~.  
 1588 4. By rule, establish procedures and a format for each  
 1589 fire protection agency to voluntarily monitor its records and  
 1590 submit reports to the program.  
 1591 5. Establish an electronic information database which is  
 1592 accessible and searchable by fire protection agencies.  
 1593 (b) The division ~~of State Fire Marshal~~ shall consult with  
 1594 the Florida Forest Service of the Department of Agriculture and  
 1595 Consumer Services and the State Surgeon General of the  
 1596 Department of Health to coordinate data, ensure accuracy of the

1597 data, and limit duplication of efforts in data collection,  
 1598 analysis, and reporting.  
 1599 (2) The Fire and Emergency Incident Information System  
 1600 Technical Advisory Panel is created within the division ~~of State~~  
 1601 ~~Fire Marshal~~. The panel shall advise, review, and recommend to  
 1602 the State Fire Marshal with respect to the requirements of this  
 1603 section. The membership of the panel shall consist of the  
 1604 following 15 members:  
 1605 (a) The current 13 members of the Firefighters Employment,  
 1606 Standards, and Training Council as established in s. 633.402  
 1607 ~~633.31~~.  
 1608 (b) One member from the Florida Forest Service of the  
 1609 Department of Agriculture and Consumer Services, appointed by  
 1610 the director of the Florida Forest Service.  
 1611 (c) One member from the Department of Health, appointed by  
 1612 the State Surgeon General.  
 1613 (3) For the purpose of this section, the term "fire  
 1614 protection agency" shall be defined by rule by the division ~~of~~  
 1615 ~~State Fire Marshal~~.  
 1616 Section 19. Section 633.138, Florida Statutes, is created  
 1617 to read:  
 1618 633.138 Notice of change of address of record; notice of  
 1619 felony actions.—  
 1620 (1) Any individual issued a license, permit, or  
 1621 certificate under this chapter shall notify the division in  
 1622 writing of any changes to his or her current mailing address, e-  
 1623 mail address, and place of practice as specified in rule adopted  
 1624 by the division.



1625 (2) Notwithstanding any other provision of law, delivery  
 1626 by regular mail or e-mail to a licensee, permittee, or  
 1627 certificateholder, using the last known mailing address or e-  
 1628 mail address on record with the division, constitutes adequate  
 1629 and sufficient notice to the licensee, permittee, or  
 1630 certificateholder of any official communication by the division.  
 1631 (3) Any individual issued a license, permit, or  
 1632 certificate under this chapter shall notify the division in  
 1633 writing within 30 days after pleading guilty or nois contendere  
 1634 to, or being convicted or found guilty of, any felony or a crime  
 1635 punishable by imprisonment of 1 year or more under the law of  
 1636 the United States or of any state thereof, or under the law of  
 1637 any other country, without regard to whether a judgment of  
 1638 conviction has been entered by the court having jurisdiction of  
 1639 the case.  
 1640 Section 20. Section 633.042, Florida Statutes, is  
 1641 transferred and renumbered as subsections (1) through (11) of  
 1642 section 633.142, Florida Statutes, and amended, and section  
 1643 633.0421, Florida Statutes, is transferred and renumbered as  
 1644 paragraph (b) of subsection (11) of that section and amended, to  
 1645 read:  
 1646 633.142 ~~633.042~~ Reduced Cigarette Ignition Propensity  
 1647 Standard and Firefighter Protection Act; ~~preemption.~~  
 1648 (1) SHORT TITLE.—This section may be cited as the "Reduced  
 1649 Cigarette Ignition Propensity Standard and Firefighter  
 1650 Protection Act."  
 1651 (2) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds  
 1652 and declares that:

1653 (a) Cigarettes are the leading cause of fire deaths in  
 1654 this state and in the nation.  
 1655 (b) Each year in the United States, between 700 and 900  
 1656 persons are killed and around 3,000 persons are injured in fires  
 1657 ignited by cigarettes, while in this state 153 residential fires  
 1658 and 5 fatalities were attributable to fires caused by cigarettes  
 1659 in 2006.  
 1660 (c) A high percentage of the victims of cigarette fires  
 1661 are nonsmokers, including senior citizens and young children.  
 1662 (d) Fires caused by cigarettes result in billions of  
 1663 dollars in property losses and damages in the United States and  
 1664 millions of dollars in property losses and damages in this  
 1665 state.  
 1666 (e) Cigarette fires unnecessarily jeopardize the safety of  
 1667 firefighters and result in avoidable emergency response costs  
 1668 for municipalities.  
 1669 (f) In 2004, the State of New York implemented a cigarette  
 1670 firesafety regulation requiring cigarettes sold in that state to  
 1671 meet a firesafety performance standard; in 2005, Vermont and  
 1672 California enacted cigarette firesafety laws directly  
 1673 incorporating New York's regulation into statute; and in 2006,  
 1674 Illinois, New Hampshire, and Massachusetts joined these states  
 1675 in enacting similar laws.  
 1676 (g) In 2005, Canada implemented the New York State  
 1677 firesafety standard, becoming the first country to have a  
 1678 nationwide cigarette firesafety standard.  
 1679 (h) New York State's cigarette firesafety standard is  
 1680 based upon decades of research by the National Institute of

1709	and Tobacco of the Department of Business and Professional Regulation.
1710	
1711	(d) "Manufacturer" means:
1712	1. Any entity that manufactures or produces, or causes to
1713	be manufactured or produced, regardless of location, cigarettes
1714	that such manufacturer intends to be sold in this state,
1715	including cigarettes intended to be sold in the United States
1716	through an importer;
1717	2. Any entity, regardless of location, that first
1718	purchases cigarettes manufactured anywhere and not intended by
1719	the original manufacturer or maker to be sold in the United
1720	States and that intends to resell such cigarettes in the United
1721	States; or
1722	3. Any entity that becomes a successor of an entity
1723	described in subparagraph 1. or subparagraph 2.
1724	(e) "Quality control and quality assurance program" means
1725	laboratory procedures implemented to ensure that operator bias,
1726	systematic and nonsystematic methodological errors, and
1727	equipment-related problems do not affect the results of
1728	laboratory testing. Such a program shall ensure that the testing
1729	repeatability remains within the required repeatability values
1730	stated in subparagraph (4)(a)6. for all test trials used to
1731	certify cigarettes in accordance with this section.
1732	(f) "Repeatability" means the range of values within which
1733	the results of repeated cigarette test trials from a single
1734	Laboratory will fall 95 percent of the time.
1735	(g) "Retail dealer" means:
1736	1. Any person, other than a manufacturer or wholesale

1681	Standards and Technology, Congressional research groups, and
1682	private industry. This cigarette firesafety standard minimizes
1683	costs to the state; minimally burdens cigarette manufacturers,
1684	distributors, and retail sellers; and, therefore, should become
1685	law in this state.
1686	(i) It is therefore fitting and proper for this state to
1687	adopt the cigarette firesafety standard that is in effect in the
1688	State of New York to reduce the likelihood that cigarettes will
1689	cause fires and result in deaths, injuries, and property
1690	damages.
1691	(3) DEFINITIONS.—For the purposes of this section:
1692	(a) "Agent" means any person authorized by the Division of
1693	Alcoholic Beverages and Tobacco of the Department of Business
1694	and Professional Regulation to purchase and affix stamps on
1695	packages of cigarettes.
1696	(b) "Cigarette" means:
1697	1. Any roll for smoking, whether made wholly or in part of
1698	tobacco or any other substance, irrespective of size or shape,
1699	and whether such tobacco or substance is flavored, adulterated,
1700	or mixed with any other ingredient, the wrapper or cover of
1701	which is made of paper or any other substance or material other
1702	than tobacco; or
1703	2. Any roll for smoking that is wrapped in any substance
1704	containing tobacco and that, because of the type of tobacco used
1705	in the filler or its packaging and labeling, is likely to be
1706	offered to, or purchased by, consumers as a cigarette as
1707	described in subparagraph 1.
1708	(c) "Division" means the Division of Alcoholic Beverages

1737 dealer, engaged in selling cigarettes; or

1738 2. Any person who owns, operates, or maintains one or more

1739 cigarette or tobacco-product vending machines in, at, or upon

1740 premises owned or occupied by any other person.

1741 (h) "Sale" means any transfer of title or possession or

1742 both, exchange or barter, conditional or otherwise, in any

1743 manner or by any means whatever or any agreement therefor. In

1744 addition to cash and credit sales, the giving of cigarettes as

1745 samples, prizes, or gifts and the exchanging of cigarettes for

1746 any consideration other than money are considered sales.

1747 (i) "Sell" means to execute a sale or to offer or agree to

1748 execute a sale.

1749 (j) "Wholesale dealer" means any person, other than a

1750 manufacturer, who sells cigarettes to retail dealers or other

1751 persons for purposes of resale.

1752 (4) TEST METHOD AND PERFORMANCE STANDARD.—

1753 (a) Except as provided in paragraph (f), no cigarettes may

1754 be sold or offered for sale in this state, or sold or offered

1755 for sale to persons located in this state, unless the cigarettes

1756 have been tested in accordance with the test method and meet the

1757 performance standard specified in this subsection, a written

1758 certification has been filed by the manufacturer with the

1759 division in accordance with subsection (5), and the cigarettes

1760 have been marked in accordance with subsection (6) .

1761 1. Testing of cigarettes shall be conducted in accordance

1762 with the American Society for Testing and Materials standard

1763 E2187-04, "Standard Test Method for Measuring the Ignition

1764 Strength of Cigarettes."

1765 2. Testing shall be conducted on 10 layers of filter

1766 paper.

1767 3. No more than 25 percent of the cigarettes tested in a

1768 test trial in accordance with this subsection shall exhibit

1769 full-length burns. Forty replicate tests shall comprise a

1770 complete test trial for each cigarette tested.

1771 4. The performance standard required by this subsection

1772 shall only be applied to a complete test trial.

1773 5. Written certifications shall be based upon testing

1774 conducted by a laboratory that has been accredited pursuant to

1775 standard ISO/IEC 17025 of the International Organization for

1776 Standardization or another comparable accreditation standard

1777 required by the State Fire Marshal.

1778 6. Laboratories conducting testing in accordance with this

1779 subsection shall implement a quality control and quality

1780 assurance program that includes a procedure that will determine

1781 the repeatability of the testing results. The repeatability

1782 value shall be no greater than 0.19.

1783 7. This subsection does not require additional testing if

1784 cigarettes are tested consistently with this section for any

1785 other purpose.

1786 8. The State Fire Marshal may, in his or her discretion or

1787 upon the request of the division, perform or sponsor testing to

1788 determine a cigarette's compliance with the required performance

1789 standard. Any such discretionary compliance testing by the State

1790 Fire Marshal shall be conducted in accordance with this

1791 subsection.

1792 (b) Each cigarette listed in a certification submitted

1793 pursuant to subsection (5) that uses lowered permeability bands  
 1794 in the cigarette paper to achieve compliance with the  
 1795 performance standard set forth in this subsection shall have at  
 1796 least two nominally identical bands on the paper surrounding the  
 1797 tobacco column. At least one complete band shall be located at  
 1798 least 15 millimeters from the lighting end of the cigarette. For  
 1799 cigarettes on which the bands are positioned by design, there  
 1800 shall be at least two bands fully located at least 15  
 1801 millimeters from the lighting end and 10 millimeters from the  
 1802 filter end of the tobacco column, or 10 millimeters from the  
 1803 labeled end of the tobacco column for nonfiltered cigarettes.  
 1804 (c) A manufacturer of a cigarette that the State Fire  
 1805 Marshal determines cannot be tested in accordance with the test  
 1806 method prescribed in subparagraph (a)1. shall propose a test  
 1807 method and performance standard for the cigarette to the State  
 1808 Fire Marshal. Upon approval of the proposed test method and a  
 1809 determination by the State Fire Marshal that the performance  
 1810 standard proposed by the manufacturer is equivalent to the  
 1811 performance standard prescribed in subparagraph (a)3., the  
 1812 manufacturer may employ such test method and performance  
 1813 standard to certify such cigarette pursuant to subsection (5).  
 1814 If the State Fire Marshal determines that another state has  
 1815 enacted reduced cigarette ignition propensity standards that  
 1816 include a test method and performance standard that are the same  
 1817 as those contained in this section, and if the State Fire  
 1818 Marshal finds that the officials responsible for implementing  
 1819 those requirements have approved the proposed alternative test  
 1820 method and performance standard for a particular cigarette

1821 proposed by a manufacturer as meeting the firesafety standards  
 1822 of that state's law or regulation under a legal provision  
 1823 comparable to this subsection, the State Fire Marshal shall  
 1824 authorize that manufacturer to employ the alternative test  
 1825 method and performance standard to certify that cigarette for  
 1826 sale in this state unless the State Fire Marshal demonstrates a  
 1827 reasonable basis why the alternative test should not be accepted  
 1828 under this section. All other applicable requirements of this  
 1829 subsection shall apply to the manufacturer.  
 1830 (d) Each manufacturer shall maintain copies of the reports  
 1831 of all tests conducted on all cigarettes offered for sale for a  
 1832 period of 3 years and shall make copies of the reports available  
 1833 to the division, the State Fire Marshal, and the Attorney  
 1834 General upon written request. Any manufacturer who fails to make  
 1835 copies of the reports available within 60 days after receiving a  
 1836 written request shall be subject to a civil penalty not to  
 1837 exceed \$10,000 for each day after the 60th day that the  
 1838 manufacturer does not make such copies available.  
 1839 (e) The State Fire Marshal may adopt a subsequent American  
 1840 Society for Testing and Materials Standard Test Method for  
 1841 Measuring the Ignition Strength of Cigarettes upon a finding  
 1842 that such subsequent method does not result in a change in the  
 1843 percentage of full-length burns exhibited by any tested  
 1844 cigarette when compared to the percentage of full-length burns  
 1845 the same cigarette would exhibit when tested in accordance with  
 1846 American Society for Testing and Materials Standard E2187-04 and  
 1847 the performance standard in subparagraph (a)3.  
 1848 (f) The requirements of paragraph (a) shall not prohibit:

1849 1. Wholesale or retail dealers from selling their existing  
 1850 inventory of cigarettes on or after the effective date of this  
 1851 section if the wholesale or retail dealer can establish that  
 1852 state tax stamps were affixed to the cigarettes prior to the  
 1853 effective date and the wholesale or retail dealer can establish  
 1854 that the inventory was purchased prior to the effective date in  
 1855 comparable quantity to the inventory purchased during the same  
 1856 period of the prior year; or  
 1857 2. The sale of cigarettes solely for the purpose of  
 1858 consumer testing. For purposes of this subparagraph, the term  
 1859 "consumer testing" means an assessment of cigarettes that is  
 1860 conducted by or is under the control and direction of a  
 1861 manufacturer for the purpose of evaluating consumer acceptance  
 1862 of such cigarettes and that uses only the quantity of cigarettes  
 1863 that is reasonably necessary for such assessment.  
 1864 (g) It is the intent of the Legislature by this section to  
 1865 promote uniformity among the states in the regulation of reduced  
 1866 cigarette ignition propensity. As a result, the resolution of  
 1867 issues regarding the interpretation and implementation of this  
 1868 section should be made in a manner consistent with the New York  
 1869 Fire Safety Standards for Cigarettes, New York Executive Law,  
 1870 Section 156-C, as amended, and Part 429 of Title 19 New York  
 1871 Codes, Rules, and Regulations, as amended, and the  
 1872 interpretation and implementation thereof, as they exist on  
 1873 March 1, 2008.  
 1874 (5) CERTIFICATION AND PRODUCT CHANGE.—  
 1875 (a) Each manufacturer shall submit to the division a  
 1876 written certification attesting that:

1877 1. Each cigarette listed in the certification has been  
 1878 tested in accordance with subsection (4).  
 1879 2. Each cigarette listed in the certification meets the  
 1880 performance standard set forth in subsection (4).  
 1881 (b) Each cigarette listed in the certification shall be  
 1882 described with the following information:  
 1883 1. Brand, or trade name, on the package.  
 1884 2. Style, such as light or ultra light.  
 1885 3. Length in millimeters.  
 1886 4. Circumference in millimeters.  
 1887 5. Flavor, such as menthol or chocolate, if applicable.  
 1888 6. Filter or nonfilter.  
 1889 7. Package description, such as soft pack or box.  
 1890 8. Marking pursuant to subsection (6).  
 1891 9. The name, address, and telephone number of the testing  
 1892 laboratory, if different from the name, address, and telephone  
 1893 number of the manufacturer that conducted the test.  
 1894 10. The date the testing occurred.  
 1895 (c) Each certification shall be made available to the  
 1896 Attorney General for purposes consistent with this section and  
 1897 to the State Fire Marshal for the purposes of ensuring  
 1898 compliance with this subsection.  
 1899 (d) Each cigarette certified under this subsection shall  
 1900 be recertified every 3 years.  
 1901 (e) If a manufacturer has certified a cigarette pursuant  
 1902 to this subsection and thereafter makes any change to such  
 1903 cigarette that is likely to alter its compliance with the  
 1904 reduced cigarette ignition propensity standards required by this

1905 section, that cigarette shall not be sold or offered for sale in  
 1906 this state until the manufacturer retests the cigarette in  
 1907 accordance with the testing standards set forth in subsection  
 1908 (4) and maintains records of that retesting as required by  
 1909 subsection (4). Any altered cigarette that does not meet the  
 1910 performance standard set forth in subsection (4) may not be sold  
 1911 in this state.  
 1912 (6) MARKING OF CIGARETTE PACKAGING.—  
 1913 (a) Cigarettes that are certified by a manufacturer in  
 1914 accordance with subsection (5) shall be marked to indicate  
 1915 compliance with the requirements of subsection (4). The marking  
 1916 shall be in 8-point type or larger and consist of:  
 1917 1. Modification of the universal product code to include a  
 1918 visible mark printed at or around the area of the universal  
 1919 product code. The mark may consist of alphanumeric or symbolic  
 1920 characters permanently stamped, engraved, embossed, or printed  
 1921 in conjunction with the universal product code;  
 1922 2. Any visible combination of alphanumeric or symbolic  
 1923 characters permanently stamped, engraved, or embossed upon the  
 1924 cigarette package or cellophane wrap; or  
 1925 3. Printed, stamped, engraved, or embossed text that  
 1926 indicates that the cigarettes meet the standards of this  
 1927 section.  
 1928 (b) A manufacturer shall use only one marking and shall  
 1929 apply this marking uniformly for all brands and all packages,  
 1930 including, but not limited to, packs, cartons, and cases,  
 1931 marketed by that manufacturer.  
 1932 (c) The division shall be notified as to the marking that

1933 is selected.  
 1934 (d) Prior to the certification of any cigarette, a  
 1935 manufacturer shall present its proposed marking to the division  
 1936 for approval. Upon receipt of the request, the division shall  
 1937 approve or disapprove the marking offered, except that the  
 1938 division shall approve:  
 1939 1. Any marking in use and approved for sale in the State  
 1940 of New York pursuant to the New York Fire Safety Standards for  
 1941 Cigarettes; or  
 1942 2. The letters "FSC," which signify "Fire Standards  
 1943 Compliant," appearing in 8-point type or larger and permanently  
 1944 printed, stamped, engraved, or embossed on the package at or  
 1945 near the universal product code.  
 1946 Proposed markings shall be deemed approved if the division fails  
 1947 to act within 10 business days after receiving a request for  
 1948 approval.  
 1949 (e) No manufacturer shall modify its approved marking  
 1950 unless the modification has been approved by the division in  
 1951 accordance with this subsection.  
 1952 (f) Manufacturers certifying cigarettes in accordance with  
 1953 subsection (5) shall provide a copy of the certifications to all  
 1954 wholesale dealers and agents to which they sell cigarettes and  
 1955 shall also provide sufficient copies of an illustration of the  
 1956 package marking used by the manufacturer pursuant to this  
 1957 subsection for each retail dealer to which the wholesale dealers  
 1958 or agents sell cigarettes. Wholesale dealers and agents shall  
 1959 provide a copy of these package markings received from  
 1960



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1961 manufacturers to all retail dealers to which they sell  
 1962 cigarettes. Wholesale dealers, agents, and retail dealers shall  
 1963 permit the division, the State Fire Marshal, the Attorney  
 1964 General, and their employees to inspect markings of cigarette  
 1965 packaging marked in accordance with this subsection.  
 1966 (7) PENALTIES.—  
 1967 (a) A manufacturer, wholesaler dealer, agent, or any other  
 1968 person or entity that knowingly sells or offers to sell  
 1969 cigarettes, other than through retail sale, in violation of  
 1970 subsection (4) shall be subject to a civil penalty not to exceed  
 1971 \$100 for each pack of such cigarettes sold or offered for sale.  
 1972 In no case shall the penalty against any such person or entity  
 1973 exceed \$100,000 during any 30-day period.  
 1974 (b) A retail dealer who knowingly sells or offers to sell  
 1975 cigarettes in violation of subsection (4) shall be subject to a  
 1976 civil penalty not to exceed \$100 for each pack of such  
 1977 cigarettes sold or offered for sale. In no case shall the  
 1978 penalty against any retail dealer exceed \$25,000 during any 30-  
 1979 day period.  
 1980 (c) In addition to any penalty prescribed by law, any  
 1981 corporation, partnership, sole proprietor, limited partnership,  
 1982 or association engaged in the manufacture of cigarettes that  
 1983 knowingly makes a false certification pursuant to subsection (5)  
 1984 shall be subject to a civil penalty of at least \$75,000 and not  
 1985 to exceed \$250,000 for each such false certification.  
 1986 (d) Any person violating any other provision of this  
 1987 section shall be subject to a civil penalty not to exceed \$1,000  
 1988 for a first offense and not to exceed \$5,000 for each subsequent

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1989 offense.  
 1990 (e) Any penalties collected under this subsection shall be  
 1991 deposited into the Insurance Regulatory Trust Fund of the  
 1992 Department of Financial Services to support costs associated  
 1993 with the responsibilities of the State Fire Marshal under this  
 1994 section.  
 1995 (f) In addition to any other remedy provided by law, the  
 1996 division, the State Fire Marshal, or the Attorney General may  
 1997 file an action in circuit court for a violation of this section,  
 1998 including petitioning for injunctive relief or to recover any  
 1999 costs or damages suffered by the state because of a violation of  
 2000 this section, including enforcement costs relating to the  
 2001 specific violation and attorney's fees. Each violation of this  
 2002 section or of rules adopted under this section constitutes a  
 2003 separate civil violation for which the division, the State Fire  
 2004 Marshal, or the Attorney General may obtain relief.  
 2005 (g) Whenever any law enforcement personnel or duly  
 2006 authorized representative of the division discovers any  
 2007 cigarettes that have not been marked in the manner required by  
 2008 subsection (6), such personnel or representative is authorized  
 2009 and empowered to seize and take possession of such cigarettes.  
 2010 Such cigarettes shall be turned over to the division and shall  
 2011 be forfeited to the state. Cigarettes seized pursuant to this  
 2012 paragraph shall be destroyed; however, prior to the destruction  
 2013 of any such cigarette, the true holder of the trademark rights  
 2014 in the cigarette brand shall be permitted to inspect the  
 2015 cigarette.  
 2016 (8) IMPLEMENTATION.—

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2017 (a) The division and the State Fire Marshal may adopt  
 2018 rules to implement the provisions of this section.  
 2019 (b) The division, in the regular course of conducting  
 2020 inspections of wholesale dealers, agents, and retail dealers as  
 2021 authorized pursuant to chapter 210, may inspect such cigarettes  
 2022 to determine if the cigarettes are marked as required by  
 2023 subsection (6).  
 2024 (9) INSPECTION.—To enforce the provisions of this section,  
 2025 the Attorney General, the State Fire Marshal, the division, and  
 2026 their duly authorized representatives and other law enforcement  
 2027 personnel are authorized to examine the books, papers, invoices,  
 2028 and other records of any person in possession, control, or  
 2029 occupancy of any premises where cigarettes are placed, stored,  
 2030 sold, or offered for sale, as well as the stock of cigarettes on  
 2031 the premises. Every person in the possession, control, or  
 2032 occupancy of any premises where cigarettes are placed, sold, or  
 2033 offered for sale is directed and required to give the Attorney  
 2034 General, the State Fire Marshal, the division, and their duly  
 2035 authorized representatives and other law enforcement personnel  
 2036 the means, facilities, and opportunity for the examinations  
 2037 authorized by this subsection.  
 2038 (10) SALE OUTSIDE OF FLORIDA.—Nothing in this section  
 2039 shall be construed to prohibit any person or entity from  
 2040 manufacturing or selling cigarettes that do not meet the  
 2041 requirements of subsection (4) if the cigarettes are or will be  
 2042 stamped for sale in another state or are packaged for sale  
 2043 outside the United States and that person or entity has taken  
 2044 reasonable steps to ensure that such cigarettes will not be sold

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2045 or offered for sale to persons located in this state.  
 2046 (11) PREEMPTION.—  
 2047 (a) This section shall be repealed if a federal reduced  
 2048 cigarette ignition propensity standard that preempts this  
 2049 section is adopted and becomes effective.  
 2050 ~~633.0421 Preemption of reduced cigarette ignition~~  
 2051 ~~propensity standard by state.~~  
 2052 (b) ~~Effective upon this act becoming a law, and~~  
 2053 Notwithstanding any other provision of law, local government  
 2054 units of this state may neither enact nor enforce any ordinance  
 2055 or other local law or regulation conflicting with, or preempted  
 2056 by, any provision of this act or any policy of this state  
 2057 expressed by this act, whether that policy be expressed by  
 2058 inclusion of a provision in this act or by exclusion of that  
 2059 subject from this act.  
 2060 Section 21. Part II of chapter 633, consisting of sections  
 2061 633.202, 633.204, 633.206, 633.208, 633.212, 633.214, 633.216,  
 2062 633.218, 633.222, 633.224, 633.226, and 633.228, Florida  
 2063 Statutes, is created and entitled "Fire Safety and Prevention."  
 2064 Section 22. Section 633.0215, Florida Statutes, is  
 2065 transferred and renumbered as section 633.202, Florida Statutes,  
 2066 and subsections (2), (4), (7), (9), (10), (12), (13), (14), and  
 2067 (15) of that section are amended, to read:  
 2068 ~~633.202~~ ~~633.0215~~ Florida Fire Prevention Code.—  
 2069 (1) The State Fire Marshal shall adopt, by rule pursuant  
 2070 to ss. 120.536(1) and 120.54, the Florida Fire Prevention Code  
 2071 which shall contain or incorporate by reference all firesafety  
 2072 laws and rules that pertain to and govern the design,



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2073 construction, erection, alteration, modification, repair, and  
 2074 demolition of public and private buildings, structures, and  
 2075 facilities and the enforcement of such firesafety laws and  
 2076 rules. The State Fire Marshal shall adopt a new edition of the  
 2077 Florida Fire Prevention Code every third year.  
 2078 (2) The State Fire Marshal shall adopt the current edition  
 2079 of National Fire Protection Association's Standard 1, Fire  
 2080 Prevention Code but shall not adopt a building, mechanical, or  
 2081 plumbing code. The State Fire Marshal shall adopt the current  
 2082 edition of Life Safety Code, NFPA ~~Paraphrased~~ 101, current  
 2083 editions, by reference. The State Fire Marshal may modify the  
 2084 selected codes and standards as needed to accommodate the  
 2085 specific needs of the state. Standards or criteria in the  
 2086 selected codes shall be similarly incorporated by reference. The  
 2087 State Fire Marshal shall incorporate within sections of the  
 2088 Florida Fire Prevention Code provisions that address uniform  
 2089 firesafety standards as established in s. 633.206 ~~633-022~~. The  
 2090 State Fire Marshal shall incorporate within sections of the  
 2091 Florida Fire Prevention Code provisions addressing regional and  
 2092 local concerns and variations.  
 2093 (3) No later than 180 days before the triennial adoption  
 2094 of the Florida Fire Prevention Code, the State Fire Marshal  
 2095 shall notify each municipal, county, and special district fire  
 2096 department of the triennial code adoption and steps necessary  
 2097 for local amendments to be included within the code. No later  
 2098 than 120 days before the triennial adoption of the Florida Fire  
 2099 Prevention Code, each local jurisdiction shall provide the State  
 2100 Fire Marshal with copies of its local fire code amendments. The

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2101 State Fire Marshal has the option to process local fire code  
 2102 amendments that are received less than 120 days before the  
 2103 adoption date of the Florida Fire Prevention Code.  
 2104 (a) The State Fire Marshal shall review or cause the  
 2105 review of local amendments to determine:  
 2106 1. If the local amendment should be adopted as a statewide  
 2107 provision;  
 2108 2. That the local amendment does not provide a lesser  
 2109 degree of lifesafety than the code otherwise provides; and  
 2110 3. That the local amendment does not reference a different  
 2111 edition of the national fire codes or other national standard  
 2112 than the edition provided or referenced in the uniform or  
 2113 minimum firesafety codes adopted by the State Fire Marshal or  
 2114 prescribed by statute.  
 2115 (b) Any local amendment to the Florida Fire Prevention  
 2116 Code adopted by a local government shall be effective only until  
 2117 the adoption of the new edition of the Florida Fire Prevention  
 2118 Code, which shall be every third year. At such time, the State  
 2119 Fire Marshal shall adopt such amendment as part of the Florida  
 2120 Fire Prevention Code or rescind the amendment. The State Fire  
 2121 Marshal shall immediately notify the respective local government  
 2122 of the rescission of the amendment and the reason for the  
 2123 rescission. After receiving such notice, the respective local  
 2124 government may readopt the rescinded amendment. Incorporation of  
 2125 local amendments as regional and local concerns and variations  
 2126 shall be considered as adoption of an amendment pursuant to this  
 2127 section.  
 2128 (4) The State Fire Marshal shall update, by rule adopted

2129 pursuant to ss. 120.536(1) and 120.54, the Florida Fire  
 2130 Prevention Code every 3 years. Once initially adopted and  
 2131 subsequently updated, the Florida Fire Prevention Code ~~and the~~  
 2132 ~~life-safety code~~ shall be adopted for use statewide without  
 2133 adoptions by local governments. When updating the Florida Fire  
 2134 Prevention Code ~~and the most recent edition of the Life-Safety~~  
 2135 ~~code~~, the State Fire Marshal shall consider changes made by the  
 2136 national model fire codes incorporated into the Florida Fire  
 2137 Prevention Code, the State Fire Marshal's own interpretations,  
 2138 declaratory statements, appellate decisions, and approved  
 2139 statewide and local technical amendments.  
 2140 (5) Upon the conclusion of a triennial update to the  
 2141 Florida Fire Prevention Code and notwithstanding any other  
 2142 provisions of law, the State Fire Marshal may address the issues  
 2143 identified in this subsection by amending the Florida Fire  
 2144 Prevention Code, subject only to the rule adoption procedures of  
 2145 chapter 120. Following the approval of any amendments to the  
 2146 Florida Fire Prevention Code by the State Fire Marshal and  
 2147 publication on the State Fire Marshal's website, authorities  
 2148 having jurisdiction to enforce the Florida Fire Prevention Code  
 2149 may enforce the amendments to the code. The State Fire Marshal  
 2150 may approve only amendments that are needed to address:  
 2151 (a) Conflicts within the updated Florida Fire Prevention  
 2152 Code;  
 2153 (b) Conflicts between the updated Florida Fire Prevention  
 2154 Code and the Florida Building Code adopted pursuant to chapter  
 2155 553;  
 2156 (c) The omission of Florida-specific amendments that were

2157 previously adopted in the Florida Fire Prevention Code; or  
 2158 (d) Unintended results from the integration of Florida-  
 2159 specific amendments that were previously adopted with the model  
 2160 code.  
 2161 (6) The Florida Fire Prevention Code does not apply to,  
 2162 and no code enforcement action shall be brought with respect to,  
 2163 zoning requirements or land use requirements. Additionally, a  
 2164 local code enforcement agency may not administer or enforce the  
 2165 Florida Fire Prevention Code to prevent the siting of any  
 2166 publicly owned facility, including, but not limited to,  
 2167 correctional facilities, juvenile justice facilities, or state  
 2168 universities, community colleges, or public education  
 2169 facilities. This section shall not be construed to prohibit  
 2170 local government from imposing built-in fire protection systems  
 2171 or fire-related infrastructure requirements needed to properly  
 2172 protect the intended facility.  
 2173 (7) Any local amendment adopted by a local government must  
 2174 strengthen the Fire Prevention Code requirements of the minimum  
 2175 firesafety code.  
 2176 (8) Within 30 days after a local government adopts a local  
 2177 amendment, the local government must transmit the amendment to  
 2178 the Florida Building Commission and the State Fire Marshal.  
 2179 (9) The State Fire Marshal is authorized to adopt ~~shall~~  
 2180 make rules to ~~that~~ implement this section ~~and ss. 633.01 and~~  
 2181 ~~633.025 for the purpose of accomplishing the objectives set~~  
 2182 ~~forth in these sections.~~  
 2183 (10) Notwithstanding other provisions of this chapter, if  
 2184 a county or a municipality within that county adopts an

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2185 ordinance providing for a local amendment to the Florida Fire  
 2186 Prevention Code and that amendment provides a higher level of  
 2187 protection to the public than the level specified in the Florida  
 2188 Fire Prevention Code, the local amendment becomes effective  
 2189 without approval of the State Fire Marshal and is not rescinded  
 2190 pursuant to the provisions of this section, provided that the  
 2191 ordinance meets one or more of the following criteria:  
 2192 (a) The local authority has adopted, by ordinance, a fire  
 2193 service facilities and operation plan that outlines goals and  
 2194 objectives for related equipment, personnel, and capital  
 2195 improvement needs of the local authority related to the specific  
 2196 amendment for the next 5 years;  
 2197 (b) The local authority has adopted, by ordinance, a  
 2198 provision requiring proportionate reduction in, or rebate or  
 2199 waivers of, impact or other fees or assessments levied on  
 2200 buildings that are built or modified in compliance with the more  
 2201 stringent firesafety standards required by the local amendment;  
 2202 or  
 2203 (c) The local authority has adopted, by ordinance, a  
 2204 growth management plan that requires buildings and structures to  
 2205 be equipped with more stringent firesafety requirements required  
 2206 by the local amendment when these firesafety requirements are  
 2207 used as the basis for planning infrastructure development, uses,  
 2208 or housing densities.  
 2209  
 2210 Except as provided in s. ~~633.206~~ 633-022, the local appeals  
 2211 process shall be the venue if there is a dispute between parties  
 2212 affected by the provisions of the more stringent local

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2213 firesafety amendment adopted as part of the Florida Fire  
 2214 Prevention Code pursuant to the authority in this subsection.  
 2215 Local amendments adopted pursuant to this subsection shall be  
 2216 deemed local or regional variations and published as such in the  
 2217 Florida Fire Prevention Code. The act of publishing locally  
 2218 adopted firesafety amendments to the Florida Fire Prevention  
 2219 Code shall not be construed to mean that the State Fire Marshal  
 2220 approves or denies the authenticity or appropriateness of the  
 2221 locally adopted firesafety provision, and the burden of  
 2222 protecting the local firesafety amendment remains solely with  
 2223 the adopting local governmental authority.  
 2224 (11) The design of interior stairways within dwelling  
 2225 units, including stair tread width and riser height, landings,  
 2226 handrails, and guards, must be consistent with chapter 10 of the  
 2227 Florida Building Code.  
 2228 ~~(12) Notwithstanding other provisions of this section, the~~  
 2229 ~~State Fire Marshal shall study the use of managed facilities-~~  
 2230 ~~based, voice over internet protocol telephone service for~~  
 2231 ~~monitoring fire alarm signals. If the study determines that~~  
 2232 ~~voice over internet protocol telephone service technology~~  
 2233 ~~provides a level of protection equivalent to that required by~~  
 2234 ~~NFPA 72: National Fire Alarm Code, the State Fire Marshal shall~~  
 2235 ~~initiate rulemaking pursuant to ss. 120.536(1) and 120.54 by~~  
 2236 ~~December 1, 2009, to allow the use of this technology as an~~  
 2237 ~~additional method of monitoring fire alarm systems.~~  
 2238 (12) ~~(13)~~ (a) The State Fire Marshal shall issue an  
 2239 expedited declaratory statement relating to interpretations of  
 2240 provisions of the Florida Fire Prevention Code according to the

and has an exterior corridor providing a means of egress is exempt from installing a manual fire alarm system as required in s. 9.6 of the most recent edition of the Life Safety Code adopted in the Florida Fire Prevention Code. ~~this is intended to clarify existing law.~~

(14)(45) The Legislature finds that the electronic filing of construction plans will increase governmental efficiency, reduce costs, and increase timeliness of processing permits. If the fire code administrator or fire official provides for electronic filing, any construction plans, drawings, specifications, reports, final documents, or documents prepared or issued by a licensee may be dated and electronically signed and sealed by the licensee in accordance with part I of chapter 668, and may be transmitted electronically to the fire code administrator or fire official for approval.

Section 23. Section 633.72, Florida Statutes, is transferred, renumbered as section 633.204, Florida Statutes, and amended to read:

~~633.204~~ ~~633.72~~ Florida Fire Code Advisory Council.—  
 (1) There is created within the department the Florida Fire Code Advisory Council with 11 members appointed by the State Fire Marshal. The council shall advise and recommend to the State Fire Marshal changes to and interpretation of the uniform firesafety standards adopted under s. ~~633.022~~, ~~633.022~~, the Florida Fire Prevention Code, and those portions of the Florida Fire Prevention Code that have the effect of conflicting with building construction standards that are adopted pursuant to ss. ~~633.0215~~ and ~~633.022~~. The members of

following guidelines:

1. The declaratory statement shall be rendered in accordance with s. 120.565, except that a final decision must be issued by the State Fire Marshal within 45 days after the division's receipt of a petition seeking an expedited declaratory statement. The State Fire Marshal shall give notice of the petition and the expedited declaratory statement or the denial of the petition in the next available issue of the Florida Administrative Weekly after the petition is filed and after the statement or denial is rendered.

2. The petitioner must be the owner of the disputed project or the owner's representative.

3. The petition for an expedited declaratory statement must be:

a. Related to an active project that is under construction or must have been submitted for a permit.

b. The subject of a written notice citing a specific provision of the Florida Fire Prevention Code which is in dispute.

c. Limited to a single question that is capable of being answered with a "yes" or "no" response.

(b) A petition for a declaratory statement which does not meet all of the requirements of this subsection must be denied without prejudice. This subsection does not affect the right of the petitioner as a substantially affected person to seek a declaratory statement under s. 633.104(6) ~~633.01(6)~~.

(13)(44) A condominium, cooperative, or multifamily residential building that is less than four stories in height

2325	Florida Fire Marshals' and Inspectors' <del>Marshall's</del> Association;
2326	(i) One member shall be selected from a list submitted by
2327	the Department of Education;
2328	(j) One member shall be selected from a list submitted by
2329	the Chancellor of the State University System; and
2330	(k) One member shall be representative of the general
2331	public.
2332	(2) The State Fire Marshal and the Florida Building
2333	Commission shall coordinate efforts to provide consistency
2334	between the Florida Building Code and the Florida Fire
2335	Prevention Code <del>and the Life Safety Code</del> .
2336	<u>(3) The council shall meet at least semiannually if</u>
2337	<u>necessary to advise the State Fire Marshal's Office on matters</u>
2338	<u>subject to the provisions of this section.</u>
2339	<u>(4) The council may review proposed changes to the Florida</u>
2340	<u>Fire Prevention Code and the uniform fire safety standards</u>
2341	<u>pursuant to s. 633.202(4).</u>
2342	<u>(5)(<del>4</del>)</u> The council and Florida Building Commission shall
2343	cooperate through joint representation and coordination of codes
2344	and standards to resolve conflicts in their development,
2345	updating, and interpretation.
2346	<u>(6)(<del>4</del>)</u> Each appointee shall serve a 4-year term. No member
2347	shall serve more than two consecutive terms. No member of the
2348	council shall be paid a salary as such member, but each shall
2349	receive travel and expense reimbursement as provided in s.
2350	112.061.
2351	Section 24. Section 633.022, Florida Statutes, is
2352	transferred and renumbered as section 633.206, Florida Statutes,

2297	the council shall represent the following groups and
2298	professions:
2299	(a) One member shall be the State Fire Marshal, or his or
2300	her designated appointee who shall be an administrative employee
2301	of the marshal;
2302	(b) One member shall be an administrative officer from a
2303	fire department representing a municipality, <del>or</del> a county, or a
2304	<u>special district</u> selected from a list of persons submitted by
2305	the Florida Fire Chiefs Association;
2306	(c) One member shall be an architect licensed in the state
2307	selected from a list of persons submitted by the Florida
2308	Association/American Institute of Architects;
2309	(d) One member shall be an engineer with fire protection
2310	design experience registered to practice in the state selected
2311	from a list of persons submitted by the Florida Engineering
2312	Society;
2313	(e) One member shall be an administrative officer from a
2314	building department of a county or municipality selected from a
2315	list of persons submitted by the Building Officials Association
2316	of Florida;
2317	(f) One member shall be a contractor licensed in the state
2318	selected from a list submitted by the Florida Home Builders
2319	Association;
2320	(g) One member shall be a Florida <del>certified</del> firefighter
2321	selected from a list submitted by the Florida Professional
2322	Firefighters' Association;
2323	(h) One member shall be a Florida certified <u>firesafety</u>
2324	<del>inspector</del> <u>inspector</u> selected from a list submitted by the

2353 and paragraph (a) of subsection (1) and subsection (4) of that  
 2354 section are amended, to read:  
 2355 §33.206 ~~§33.022~~ Uniform firesafety standards.—The  
 2356 legislature hereby determines that to protect the public health,  
 2357 safety, and welfare it is necessary to provide for firesafety  
 2358 standards governing the construction and utilization of certain  
 2359 buildings and structures. The Legislature further determines  
 2360 that certain buildings or structures, due to their specialized  
 2361 use or to the special characteristics of the person utilizing or  
 2362 occupying these buildings or structures, should be subject to  
 2363 firesafety standards reflecting these special needs as may be  
 2364 appropriate.

2365 (1) The department shall establish uniform firesafety  
 2366 standards that apply to:  
 2367 (a) All new, existing, and proposed state-owned and state-  
 2368 leased buildings, including state universities as defined under  
 2369 s. 1000.21(6).

2370 (b) All new, existing, and proposed hospitals, nursing  
 2371 homes, assisted living facilities, adult family-care homes,  
 2372 correctional facilities, public schools, transient public  
 2373 lodging establishments, public food service establishments,  
 2374 elevators, migrant labor camps, mobile home parks, lodging  
 2375 parks, recreational vehicle parks, recreational camps,  
 2376 residential and nonresidential child care facilities, facilities  
 2377 for the developmentally disabled, motion picture and television  
 2378 special effects productions, tunnels, and self-service gasoline  
 2379 stations, of which standards the State Fire Marshal is the final  
 2380 administrative interpreting authority.

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In the event there is a dispute between the owners of the  
 buildings specified in paragraph (b) and a local authority  
 requiring a more stringent uniform firesafety standard for  
 sprinkler systems, the State Fire Marshal shall be the final  
 administrative interpreting authority and the State Fire  
 Marshal's interpretation regarding the uniform firesafety  
 standards shall be considered final agency action.

(2) (a) With respect to the uniform firesafety standards,  
 the department shall develop uniform statewide standards which  
 are reasonably prudent with respect to protecting life, safety,  
 and property and which take into consideration the  
 characteristics of the people utilizing the subject buildings  
 and structures and other hazards associated with the subject  
 buildings and structures throughout the state.

(b) A local authority may not require more stringent  
 uniform firesafety standards with respect to buildings or  
 structures subject to such standards except as provided in  
 paragraph (c). A local authority may, on a case-by-case basis,  
 in order to meet special situations arising from historic,  
 geographic, or unusual conditions, with respect to a building or  
 structure which is subject to the uniform firesafety standards,  
 authorize equivalent alternative standards for such building or  
 structure; however, the alternative requirements shall not  
 result in a level of protection to life, safety, or property  
 less stringent than the applicable uniform firesafety standards.  
 All such local authorities shall enforce, within their  
 firesafety jurisdiction, the uniform firesafety standards for



2437 Marshal's interpretation regarding the uniform firesafety  
 2438 standards shall be considered final agency action.  
 2439 (3) In establishing the uniform firesafety standards and  
 2440 the minimum firesafety standards, as required by s. 394.879, the  
 2441 department shall consider types of construction materials and  
 2442 their flame spread and smoke characteristics, occupancy levels,  
 2443 means of egress, special hazard protection, smoke barriers,  
 2444 interior finish, and fire protection systems or equipment and  
 2445 occupancy features necessary to minimize danger to life from  
 2446 fire, smoke, fumes, or panic. In considering these factors, the  
 2447 department shall develop minimum standards which are reasonably  
 2448 prudent with respect to protecting life, safety, and property.  
 2449 (4) (a) Notwithstanding any provision of law to the  
 2450 contrary, each nursing home licensed under part II of chapter  
 2451 400 shall be protected throughout by an approved, supervised  
 2452 automatic sprinkler system in accordance with s. 9 of National  
 2453 Fire Protection Association, Inc., Life Safety Code, no later  
 2454 than December 31, 2010. ~~A nursing home licensee shall submit~~  
 2455 ~~complete sprinkler construction documents to the Agency for~~  
 2456 ~~Health Care Administration for review by December 31, 2009, and~~  
 2457 ~~the licensee must gain final approval to start construction from~~  
 2458 ~~the agency by June 30, 2009. The agency shall grant a 6-month~~  
 2459 ~~extension to a nursing home licensee if the completion and~~  
 2460 ~~submission of the sprinkler construction documents are~~  
 2461 ~~contingent upon the approval of the application for the loan~~  
 2462 ~~guarantee program authorized under s. 633.0245. In such case,~~  
 2463 ~~the agency may extend the deadline for final approval to begin~~  
 2464 ~~construction beyond June 30, 2009, but the deadline may not be~~

2409 those buildings specified in paragraph (1)(b) and the minimum  
 2410 firesafety standards adopted pursuant to s. 394.879.  
 2411 (c) A local authority may require more stringent uniform  
 2412 firesafety standards for sprinkler systems in buildings  
 2413 specified in paragraph (b), for which the construction contract  
 2414 is let after January 1, 1994, if the following conditions are  
 2415 met:  
 2416 1. The local authority has adopted, by ordinance, a fire  
 2417 service facilities and operation plan that outlines goals and  
 2418 objectives for related equipment, personnel, and capital  
 2419 improvement needs of the local authority for the next 5 years.  
 2420 2. The local authority has adopted, by ordinance, a  
 2421 provision requiring proportionate reductions in, or rebate or  
 2422 waivers of, impact or other fees or assessments levied on  
 2423 buildings that are built or modified in compliance with the more  
 2424 stringent sprinkler standards.  
 2425 3. The local authority has adopted, by ordinance, a plan  
 2426 that requires buildings specified in paragraph (b) to be  
 2427 equipped with an automatic sprinkler system installed in  
 2428 compliance with the provisions prescribed in standards as  
 2429 established by the National Fire Protection Association and  
 2430 adopted by the State Fire Marshal.  
 2431  
 2432 In the event there is a dispute between the owners of the  
 2433 buildings specified in paragraph (b) and a local authority  
 2434 requiring a more stringent uniform firesafety standard for  
 2435 sprinkler systems, the State Fire Marshal shall be the final  
 2436 administrative interpreting authority and the State Fire

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2493 structures subject to the minimum firesafety standards adopted  
 2494 pursuant to s. 394.879.  
 2495 (2) Pursuant to subsection (1), each municipality, county,  
 2496 and special district with firesafety responsibilities shall  
 2497 enforce the Florida Fire Prevention Code ~~and the Life-Safety~~  
 2498 ~~Code as the minimum firesafety code required by this section.~~  
 2499 ~~(3) The most current edition of the National Fire~~  
 2500 ~~Protection Association (NFPA) 101, Life Safety Code, adopted by~~  
 2501 ~~the State Fire Marshal, shall be deemed to be adopted by each~~  
 2502 ~~municipality, county, and special district with firesafety~~  
 2503 ~~responsibilities as part of the minimum firesafety code.~~  
 2504 (3)(4) Such code ~~code~~ shall be a minimum code ~~code~~ and a  
 2505 municipality, county, or special district with firesafety  
 2506 responsibilities may adopt more stringent firesafety standards,  
 2507 subject to the requirements of this subsection. Such county,  
 2508 municipality, or special district may establish alternative  
 2509 requirements to those requirements which are required under the  
 2510 minimum firesafety standards on a case-by-case basis, in order  
 2511 to meet special situations arising from historic, geographic, or  
 2512 unusual conditions, if the alternative requirements result in a  
 2513 level of protection to life, safety, or property equal to or  
 2514 greater than the applicable minimum firesafety standards. For  
 2515 the purpose of this subsection, the term "historic" means that  
 2516 the building or structure is listed on the National Register of  
 2517 Historic Places of the United States Department of the Interior.  
 2518 (a) The local governing body shall determine, following a  
 2519 public hearing which has been advertised in a newspaper of  
 2520 general circulation at least 10 days before the hearing, if

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2465 ~~extended beyond December 31, 2009.~~  
 2466 ~~(b) The division may grant up to two 1-year extensions of~~  
 2467 ~~the time limits for compliance in subparagraph (a)2. if the~~  
 2468 ~~division determines that the nursing home has been prevented~~  
 2469 ~~from complying for reasons beyond its control.~~  
 2470 (b)(e) The division is authorized to adopt any rule  
 2471 necessary for the implementation and enforcement of this  
 2472 subsection. The division shall enforce this subsection in  
 2473 accordance with the provisions of this chapter, and any nursing  
 2474 home licensed under part II of chapter 400 that is in violation  
 2475 of this subsection may be subject to administrative sanctions by  
 2476 the division pursuant to this chapter.  
 2477 (c)(4) Adjustments shall be made to the provider Medicaid  
 2478 rate to allow reimbursement over a 5-year period for Medicaid's  
 2479 portion of the costs incurred to meet the requirements of this  
 2480 subsection. Funding for this adjustment shall come from existing  
 2481 nursing home appropriations.  
 2482 Section 25. Section 633.025, Florida Statutes, is  
 2483 transferred and renumbered as section 633.208, Florida Statutes,  
 2484 and amended, to read:  
 2485 633.208 633.025 Minimum firesafety standards.—  
 2486 (1) The Florida Fire Prevention Code ~~and the Life-Safety~~  
 2487 ~~Code~~ adopted by the State Fire Marshal, which shall operate in  
 2488 conjunction with the Florida Building Code, shall be deemed  
 2489 adopted by each municipality, county, and special district with  
 2490 firesafety responsibilities. The minimum firesafety codes shall  
 2491 not apply to buildings and structures subject to the uniform  
 2492 firesafety standards under s. 633.206 633.022 and buildings and



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2521 there is a need to strengthen the requirements of the minimum  
 2522 firesafety code adopted by such governing body. The  
 2523 determination must be based upon a review of local conditions by  
 2524 the local governing body, which review demonstrates that local  
 2525 conditions justify more stringent requirements than those  
 2526 specified in the minimum firesafety code for the protection of  
 2527 life and property or justify requirements that meet special  
 2528 situations arising from historic, geographic, or unusual  
 2529 conditions.  
 2530 (b) Such additional requirements shall not be  
 2531 discriminatory as to materials, products, or construction  
 2532 techniques of demonstrated capabilities.  
 2533 (c) Paragraphs (a) and (b) apply solely to the local  
 2534 enforcing agency's adoption of requirements more stringent than  
 2535 those specified in the Florida Fire Prevention Code and the Life  
 2536 Safety Code that have the effect of amending building  
 2537 construction standards. Upon request, the enforcing agency shall  
 2538 provide a person making application for a building permit, or  
 2539 any state agency or board with construction-related regulation  
 2540 responsibilities, a listing of all such requirements and codes.  
 2541 (d) A local government which adopts amendments to the  
 2542 minimum firesafety code must provide a procedure by which the  
 2543 validity of such amendments may be challenged by any  
 2544 substantially affected party to test the amendment's compliance  
 2545 with the provisions of this section.  
 2546 1. Unless the local government agrees to stay enforcement  
 2547 of the amendment, or other good cause is shown, the challenging  
 2548 party shall be entitled to a hearing on the challenge within 45

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2549 days.  
 2550 2. For purposes of such challenge, the burden of proof  
 2551 shall be on the challenging party, but the amendment shall not  
 2552 be presumed to be valid or invalid.  
 2553  
 2554 This subsection gives local government the authority to  
 2555 establish firesafety codes that exceed the Florida Fire  
 2556 Prevention Code ~~minimum firesafety code and standards~~ adopted  
 2557 by the State Fire Marshal. The Legislature intends that local  
 2558 government give proper public notice and hold public hearings  
 2559 before adopting more stringent firesafety codes ~~and standards~~. A  
 2560 substantially affected person may appeal, to the department, the  
 2561 local government's resolution of the challenge, and the  
 2562 department shall determine if the amendment complies with this  
 2563 section. Actions of the department are subject to judicial  
 2564 review pursuant to s. 120.68. The department shall consider  
 2565 reports of the Florida Building Commission, pursuant to part IV  
 2566 of chapter 553, when evaluating building code enforcement.  
 2567 (4) ~~(5)~~ The new building or structure provisions enumerated  
 2568 within the Florida Fire Prevention Code ~~firesafety code~~ adopted  
 2569 pursuant to this section shall apply only to buildings or  
 2570 structures for which the building permit is issued on or after  
 2571 the effective date of the current edition of the Florida Fire  
 2572 Prevention Code ~~this act~~. Subject to the provisions of  
 2573 subsection (6), the existing building or structure provisions  
 2574 enumerated within the firesafety code adopted pursuant to this  
 2575 section shall apply to buildings or structures for which the  
 2576 building permit was issued or the building or structure was

2577 constructed prior to the effective date of this act.

2578 (5)-(6) With regard to existing buildings, the Legislature

2579 recognizes that it is not always practical to apply any or all

2580 of the provisions of the Florida Fire Prevention Code ~~minimum~~

2581 ~~firesafety code~~ and that physical limitations may require

2582 disproportionate effort or expense with little increase in fire

2583 or life safety. ~~Prior to applying the minimum firesafety code to~~

2584 ~~an existing building, the local fire official shall determine~~

2585 ~~that a threat to lifesafety or property exists.~~ If a threat to

2586 lifesafety or property exists, the firesafety inspector ~~fire~~

2587 ~~official~~ shall apply the applicable firesafety code for existing

2588 buildings to the extent practical to assure a reasonable degree

2589 of lifesafety and safety of property or the firesafety inspector

2590 ~~fire official~~ shall fashion a reasonable alternative which

2591 affords an equivalent degree of lifesafety and safety of

2592 property. The decision of the local firesafety inspector ~~fire~~

2593 ~~official~~ may be appealed to the local administrative board

2594 described in s. 553.73.

2595 (6)-(7) Nothing herein shall preclude a municipality,

2596 county, or special district from requiring a structure to be

2597 maintained in accordance with the Florida Fire Prevention Code

2598 ~~applicable firesafety code~~.

2599 (7)-(8) Electrically operated single station smoke

2600 detectors required for residential buildings are not required to

2601 be interconnected within individual living units in all

2602 buildings having direct access to the outside from each living

2603 unit and having three stories or less. This subsection does not

2604 apply to any residential building required to have a manual or

2605 an automatic fire alarm system.

2606 (8)-(9) The provisions of the Life Safety Code, as

2607 contained in the Florida Fire Prevention Code, shall not apply

2608 to newly constructed one-family and two-family dwellings.

2609 However, fire sprinkler protection may be permitted by local

2610 government in lieu of other fire protection-related development

2611 requirements for such structures. While local governments may

2612 adopt fire sprinkler requirements for one- and two-family

2613 dwellings under this subsection, it is the intent of the

2614 Legislature that the economic consequences of the fire sprinkler

2615 mandate on home owners be studied before the enactment of such a

2616 requirement. After the effective date of this act, any local

2617 government that desires to adopt a fire sprinkler requirement on

2618 one- or two-family dwellings must prepare an economic cost and

2619 benefit report that analyzes the application of fire sprinklers

2620 to one- or two-family dwellings or any proposed residential

2621 subdivision. The report must consider the tradeoffs and specific

2622 cost savings and benefits of fire sprinklers for future owners

2623 of property. The report must include an assessment of the cost

2624 savings from any reduced or eliminated impact fees if

2625 applicable, the reduction in special fire district tax,

2626 insurance fees, and other taxes or fees imposed, and the waiver

2627 of certain infrastructure requirements including the reduction

2628 of roadway widths, the reduction of water line sizes, increased

2629 fire hydrant spacing, increased dead-end roadway length and a

2630 reduction in cul-de-sac sizes relative to the costs from fire

2631 sprinkling. A failure to prepare an economic report shall result

2632 in the invalidation of the fire sprinkler requirement to any

2661 public safety, health, and welfare; ensures uniform  
 2662 interpretations throughout this state; and provides just and  
 2663 expeditious processes for resolving disputes regarding such  
 2664 interpretations. It is the further intent of the Legislature  
 2665 that such processes provide for the expeditious resolution of  
 2666 the issues presented and that the resulting interpretation of  
 2667 such issues be published on the website of the division ~~of State~~  
 2668 ~~Fire Marshal~~.

(1) The division ~~of State Fire Marshal~~ shall by rule  
 establish an informal process of rendering nonbinding  
 interpretations of the Florida Fire Prevention Code. The  
 division ~~of State Fire Marshal~~ may contract with and refer  
 interpretive issues to a third party, selected based upon cost  
 effectiveness, quality of services to be performed, and other  
 performance-based criteria, which has experience in interpreting  
 and enforcing the Florida Fire Prevention Code. It is the intent  
 of the Legislature that the division ~~of State Fire Marshal~~  
 establish a Fire Code Interpretation Committee composed of seven  
 persons and seven alternates, equally representing each area of  
 the state, to which a party can pose questions regarding the  
 interpretation of the Florida Fire Prevention Code provisions.

(2) Each member and alternate member of the Fire Code  
 Interpretation Committee must be certified as a firesafety  
 inspector pursuant to s. 633.216(2) ~~633.081(2)~~ and must have a  
 minimum of 5 years of experience interpreting and enforcing the  
 Florida Fire Prevention Code ~~and the Life Safety Code~~. Each  
 member and alternate member must be approved by the division ~~of~~  
~~State Fire Marshal~~ and deemed by the division to have met these

2633 one- or two-family dwelling or any proposed subdivision. In  
 2634 addition, a local jurisdiction or utility may not charge any  
 2635 additional fee, above what is charged to a non-fire sprinklered  
 2636 dwelling, on the basis that a one- or two-family dwelling unit  
 2637 is protected by a fire sprinkler system.

(9) ~~(10)~~ Before imposing a fire sprinkler requirement on  
 any one- or two-family dwelling, a local government must provide  
 the owner of any one- or two-family dwelling a letter  
 documenting specific infrastructure or other tax or fee  
 allowances and waivers that are listed in but not limited to  
 those described in subsection (8) ~~(9)~~ for the dwelling. The  
 documentation must show that the cost savings reasonably  
 approximate the cost of the purchase and installation of a fire  
 protection system.

(10) ~~(11)~~ Notwithstanding the provisions of subsection  
(8) ~~(9)~~, a property owner shall not be required to install fire  
 sprinklers in any residential property based upon the use of  
 such property as a rental property or any change in or  
 reclassification of the property's primary use to a rental  
 property.

Section 26. Section 633.026, Florida Statutes, is  
 transferred, renumbered as section 633.212, Florida Statutes,  
 and amended to read:  
633.212 ~~633.026~~ Legislative intent; informal  
 interpretations of the Florida Fire Prevention Code.—It is the  
 intent of the Legislature that the Florida Fire Prevention Code  
 be interpreted by fire officials and local enforcement agencies  
 in a manner that reasonably and cost-effectively protects the

2717	form shall, at a minimum, require:
2718	(a) The name and address of the local fire official,
2719	including the address of the county, municipality, or special
2720	district.
2721	(b) The name and address of the owner or owner's
2722	representative or the contractor or contractor's representative.
2723	(c) A statement of the specific sections of the Florida
2724	Fire Prevention Code being interpreted by the local fire
2725	official.
2726	(d) An explanation of how the petitioner's substantial
2727	interests are being affected by the local interpretation of the
2728	Florida Fire Prevention Code.
2729	(e) A statement of the interpretation of the specific
2730	sections of the Florida Fire Prevention Code by the local fire
2731	official.
2732	(f) A statement of the interpretation that the petitioner
2733	contends should be given to the specific sections of the Florida
2734	Fire Prevention Code and a statement supporting the petitioner's
2735	interpretation.
2736	(7) Upon receipt of a petition that meets the requirements
2737	of subsection (6), the division <del>of State Fire Marshal</del> shall
2738	immediately provide copies of the petition to the Fire Code
2739	Interpretation Committee, and shall publish the petition and any
2740	response submitted by the local fire official on the State Fire
2741	Marshal's website.
2742	(8) The committee shall conduct proceedings as necessary
2743	to resolve the issues and give due regard to the petition, the
2744	facts of the matter at issue, specific code sections cited, and

2689	requirements for at least 30 days before participating in a
2690	review of a nonbinding interpretation.
2691	(3) Each nonbinding interpretation of code provisions must
2692	be provided within 10 business days after receipt of a request
2693	for interpretation. The response period established in this
2694	subsection may be waived only with the written consent of the
2695	party requesting the nonbinding interpretation and the division
2696	<del>of State Fire Marshal</del> . Nonbinding interpretations shall be
2697	advisory only and nonbinding on the parties or the State Fire
2698	Marshal.
2699	(4) In order to administer this section, the division <del>of</del>
2700	<del>State Fire Marshal</del> shall charge a fee for nonbinding
2701	interpretations. The fee may not exceed \$150 for each request
2702	for a review or interpretation. The division may authorize
2703	payment of fees directly to the nonprofit organization under
2704	contract pursuant to subsection (1).
2705	(5) A party requesting a nonbinding interpretation who
2706	disagrees with the interpretation issued under this section may
2707	apply for a <u>declaratory statement</u> <del>formal interpretation</del> from the
2708	State Fire Marshal pursuant to s. 633.104(6) <del>633.01(6)</del> .
2709	(6) The division <del>of State Fire Marshal</del> shall issue or
2710	cause to be issued a nonbinding interpretation of the Florida
2711	Fire Prevention Code pursuant to this section when requested to
2712	do so upon submission of a petition by a fire official or by the
2713	owner or owner's representative or the contractor or
2714	contractor's representative of a project in dispute. The
2715	division shall adopt a petition form by rule, and the petition
2716	form must be published on the State Fire Marshal's website. The

2773 pursuant to this section on behalf of the state or any county,  
 2774 municipality, or special district with firesafety  
 2775 responsibilities.  
 2776 (b) "Citation" means a written notice, issued only after a  
 2777 written warning has been previously issued and a minimum time  
 2778 period of 45 days, except for major structural changes, which  
 2779 may be corrected within an extended adequate period of time,  
 2780 from the date of the issuance of the warning whereby the party  
 2781 warned may correct the alleged violation, issued to a person by  
 2782 a firesafety inspector, that the firesafety inspector has  
 2783 probable cause to believe that the person has committed a civil  
 2784 infraction in violation of a duly enacted ordinance and that the  
 2785 county court will hear the charge. The citation shall contain:  
 2786 1. The date and time of issuance.  
 2787 2. The name and address of the person.  
 2788 3. The date and time the civil infraction was committed.  
 2789 4. The facts constituting probable cause.  
 2790 5. The Florida Fire Prevention Code ordinance violated.  
 2791 6. The name and authority of the firesafety inspector  
~~officer~~.  
 2792  
 2793 7. The procedure for the person to follow in order to pay  
 2794 the civil penalty or to contest the citation.  
 2795 8. The applicable civil penalty if the person elects to  
 2796 contest the citation.  
 2797 9. The applicable civil penalty if the person elects not  
 2798 to contest the citation.  
 2799 10. A conspicuous statement that if the person fails to  
 2800 pay the civil penalty within the time allowed or fails to appear

2745 any statutory implications affecting the Florida Fire Prevention  
 2746 Code. The committee shall issue an interpretation regarding the  
 2747 provisions of the Florida Fire Prevention Code within 10 days  
 2748 after the filing of a petition. The committee shall issue an  
 2749 interpretation based upon the Florida Fire Prevention Code or,  
 2750 if the code is ambiguous, the intent of the code. The  
 2751 committee's interpretation shall be provided to the petitioner  
 2752 and shall include a notice that if the petitioner disagrees with  
 2753 the interpretation, the petitioner may file a request for a  
 2754 declaratory statement ~~formal interpretation~~ by the State Fire  
 2755 Marshal under s. 633.104(6) ~~633-01-67~~. The committee's  
 2756 interpretation shall be provided to the State Fire Marshal, and  
 2757 the division shall publish the declaratory statement  
 2758 ~~interpretation~~ on the State Fire Marshal's website and in the  
 2759 Florida Administrative Weekly.  
 2760 Section 27. Section 633.052, Florida Statutes, is  
 2761 transferred and renumbered as section 633.214, Florida Statutes,  
 2762 and paragraph (a) and (b) of subsection (1), paragraph (d) of  
 2763 subsection (2), and subsections (3) and (4) of that section are  
 2764 amended, to read:  
 2765 633.214 ~~633-052~~ Ordinances relating to firesafety;  
 2766 definitions; penalties.--  
 2767 (1) As used in this section:  
 2768 (a) A "firesafety inspector" is an individual certified by  
 2769 the division ~~of State Fire Marshal~~, officially assigned the  
 2770 duties of conducting firesafety inspections of buildings and  
 2771 facilities on a recurring or regular basis, investigating civil  
 2772 infractions relating to firesafety, and issuing citations

2829	(3) Any person who willfully refuses to sign and accept a
2830	citation issued by a firesafety inspector <u>commits</u> <del>shall be</del>
2831	<del>guilty of</del> a misdemeanor of the second degree, punishable as
2832	provided in s. 775.082 or s. 775.083.
2833	(4) Nothing contained in this section shall prevent any
2834	county, <del>or</del> <u>municipality, or special district</u> from enacting any
2835	ordinance relating to firesafety codes which is identical to the
2836	provisions of this chapter or any state law, except as to
2837	penalty; however, no county or municipal ordinance relating to
2838	firesafety codes shall conflict with the provisions of this
2839	chapter or any other state law.
2840	Section 28. Section 633.081, Florida Statutes, is
2841	transferred, renumbered as section 633.216, Florida Statutes,
2842	and amended to read:
2843	<u>633.216</u> <del>633.081</del> Inspection of buildings and equipment;
2844	orders; firesafety inspection training requirements;
2845	certification; disciplinary action.—The State Fire Marshal and
2846	her or his agents or persons authorized to enforce laws and
2847	<u>rules of the State Fire Marshal</u> shall, at any reasonable hour,
2848	when the State Fire Marshal has reasonable cause to believe that
2849	a violation of this chapter or s. 509.215, or a rule promulgated
2850	thereunder, or a minimum firesafety code adopted by the State
2851	Fire Marshal or a local authority, may exist, inspect any and
2852	all buildings and structures which are subject to the
2853	requirements of this chapter or s. 509.215 and rules promulgated
2854	thereunder. The authority to inspect shall extend to all
2855	equipment, vehicles, and chemicals which are located on or
2856	within the premises of any such building or structure.

2801	in court to contest the citation, then she or he shall be deemed
2802	to have waived her or his right to contest the citation and
2803	that, in such case, judgment may be entered against the person
2804	for an amount up to the maximum civil penalty.
2805	(c) "Ordinance" means any ordinance enacted by the
2806	governing body of a county or municipality that is a civil
2807	infraction relating to firesafety codes.
2808	(2) A county or municipality that has created a code
2809	enforcement board or special magistrate system pursuant to
2810	chapter 162 may enforce firesafety code violations as provided
2811	in chapter 162. The governing body of a county or municipality
2812	which has not created a code enforcement board or special
2813	magistrate system for firesafety under chapter 162 is authorized
2814	to enact ordinances relating to firesafety codes, which
2815	ordinances shall provide:
2816	(a) That a violation of such an ordinance is a civil
2817	infraction.
2818	(b) A maximum civil penalty not to exceed \$500.
2819	(c) A civil penalty of less than the maximum civil penalty
2820	if the person who has committed the civil infraction does not
2821	contest the citation.
2822	(d) For the issuance of a citation by an officer who has
2823	probable cause to believe that a person has committed a
2824	violation of an ordinance relating to firesafety or the <u>Florida</u>
2825	<u>Fire Prevention Code</u> .
2826	(e) For the contesting of a citation in the county court.
2827	(f) Such procedures and provisions necessary to implement
2828	any ordinances enacted under the authority of this section.



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2857 (1) Each county, municipality, and special district that  
 2858 has firesafety enforcement responsibilities shall employ or  
 2859 contract with a firesafety inspector. Except as provided in s.  
 2860 633.312(2) ~~633-002(2)~~ and subsection (3), the firesafety  
 2861 inspector must conduct all firesafety inspections that are  
 2862 required by law. The governing body of a county, municipality,  
 2863 or special district that has firesafety enforcement  
 2864 responsibilities may provide a schedule of fees to pay only the  
 2865 costs of inspections conducted pursuant to this subsection and  
 2866 related administrative expenses. Two or more counties,  
 2867 municipalities, or special districts that have firesafety  
 2868 enforcement responsibilities may jointly employ or contract with  
 2869 a firesafety inspector.

2870 (2) Except as provided in s. 633.312(2) ~~633-002(2)~~, every  
 2871 firesafety inspection conducted pursuant to state or local  
 2872 firesafety requirements shall be by a person certified as having  
 2873 met the inspection training requirements set by the State Fire  
 2874 Marshal. Such person shall meet the requirements of s.

2875 633.412(1) (a) - (d), and:  
 2876 (a) ~~be a high school graduate or the equivalent as~~  
 2877 ~~determined by the department;~~

2878 ~~(b) Not have been found guilty of, or having pleaded~~  
 2879 ~~guilty or nolo contendere to, a felony or a crime punishable by~~  
 2880 ~~imprisonment of 1 year or more under the law of the United~~  
 2881 ~~States, or of any state thereof, which involves moral turpitude;~~  
 2882 ~~without regard to whether a judgment of conviction has been~~  
 2883 ~~entered by the court having jurisdiction of such case;~~  
 2884 ~~(c) Have her or his fingerprints on file with the~~

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2885 ~~department or with an agency designated by the department;~~  
 2886 ~~(d) Have good moral character as determined by the~~  
 2887 ~~department;~~

2888 ~~(e) Be at least 18 years of age;~~

2889 ~~(f) Have satisfactorily completed the firesafety inspector~~  
 2890 ~~certification examination as prescribed by division rule ~~the~~~~  
 2891 ~~department; and~~

2892 (b) (1). Have satisfactorily completed, as determined by  
 2893 division rule ~~the department,~~ a firesafety inspector training  
 2894 program of not less than 200 hours established by the department  
 2895 and administered by education or training providers ~~agencies and~~  
 2896 ~~approved by the department for the purpose of~~  
 2897 ~~providing basic certification training for firesafety~~  
 2898 ~~inspectors; or~~

2899 2. Have received in another state training which is  
 2900 determined by the division ~~department~~ to be at least equivalent  
 2901 to that required by the department for approved firesafety  
 2902 inspector education and training programs in this state.

2903 (3) (a) 1. Effective July 1, 2013, the classification of  
 2904 special state firesafety inspector is abolished, and all special  
 2905 state firesafety inspector certifications shall expire at  
 2906 midnight June 30, 2013.

2907 2. Any person who is a special state firesafety inspector  
 2908 on June 30, 2013, and who has failed to comply with paragraph  
 2909 (b) or paragraph (c) may not perform any firesafety inspection  
 2910 required by law.

2911 3. A special state firesafety inspector certificate may  
 2912 not be issued after June 30, 2011.

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2913 (b)1. Any person who is a special state firesafety  
 2914 inspector on July 1, 2011, and who has at least 5 years of  
 2915 experience as a special state firesafety inspector as of July 1,  
 2916 2011, may take the firesafety inspection examination as provided  
 2917 in paragraph (2) ~~(a)~~ for firesafety inspectors before July 1,  
 2918 2013, to be certified as a firesafety inspector under this  
 2919 section.  
 2920 2. Upon passing the examination, the person shall be  
 2921 certified as a firesafety inspector as provided in this section.  
 2922 3. A person who fails to become certified must comply with  
 2923 paragraph (c) to be certified as a firesafety inspector under  
 2924 this section.  
 2925 (c)1. To be certified as a firesafety inspector under this  
 2926 section, any person who:  
 2927 a. Is a special state firesafety inspector on July 1,  
 2928 2011, and who does not have 5 years of experience as a special  
 2929 state firesafety inspector as of July 1, 2011; or  
 2930 b. Has 5 years of experience as a special state firesafety  
 2931 inspector but has failed the examination taken as provided in  
 2932 paragraph (2) ~~(a)~~,  
 2933 must take an additional 80 hours of the courses described in  
 2934 paragraph (2) ~~(b)~~.  
 2935 2. After successfully completing the courses described in  
 2936 this paragraph, such person may take the firesafety inspection  
 2937 examination as provided in paragraph (2) ~~(a)~~, if such  
 2938 examination is taken before July 1, 2013.  
 2939 3. Upon passing the examination, the person shall be  
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2941 certified as a firesafety inspector as provided in this section.  
 2942 4. A person who fails the course of study or the  
 2943 examination described in this paragraph may not perform any  
 2944 firesafety inspection required by law on or after July 1, 2013.  
 2945 (4) A firefighter certified pursuant to s. 633.408 ~~633.35~~  
 2946 may conduct firesafety inspections, under the supervision of a  
 2947 certified firesafety inspector, while on duty as a member of a  
 2948 fire department company conducting inservice firesafety  
 2949 inspections without being certified as a firesafety inspector,  
 2950 if such firefighter has satisfactorily completed an inservice  
 2951 fire department company inspector training program of at least  
 2952 24 hours' duration as provided by rule of the department.  
 2953 (5) Every firesafety inspector certificate is valid for a  
 2954 period of ~~4~~ years from the date of issuance. Renewal of  
 2955 certification is subject to the affected person's completing  
 2956 proper application for renewal and meeting all of the  
 2957 requirements for renewal as established under this chapter or by  
 2958 rule adopted under this chapter, which shall include completion  
 2959 of at least ~~54~~ ~~40~~ hours during the preceding ~~4-year~~ ~~3-year~~  
 2960 period of continuing education as required by the rule of the  
 2961 department or, in lieu thereof, successful passage of an  
 2962 examination as established by the department.  
 2963 ~~(6)~~ A previously certified fire safety inspector whose  
 2964 certification has lapsed for 8 years or more must repeat the  
 2965 fire safety inspector training as specified by the division.  
 2966 ~~(7)~~ The State Fire Marshal may deny, refuse to renew,  
 2967 suspend, or revoke the certificate of a firesafety inspector if  
 2968 the State Fire Marshal finds that any of the following grounds



2997 work that is under the enforcement authority of the  
 2998 certificateholder and who is not an immediate family member of  
 2999 the certificateholder. For the purpose of this paragraph, the  
 3000 term "immediate family member" means a spouse, child, parent,  
 3001 sibling, grandparent, aunt, uncle, or first cousin of the person  
 3002 or the person's spouse or any person who resides in the primary  
 3003 residence of the certificateholder.

3004 ~~(8)(7)~~ The division ~~of State Fire Marshal~~ and the Florida  
 3005 Building Code Administrators and Inspectors Board, established  
 3006 pursuant to s. 468.605, shall enter into a reciprocity agreement  
 3007 to facilitate joint recognition of continuing education  
 3008 recertification hours for certificateholders licensed under s.  
 3009 468.609 and firesafety inspectors certified under subsection  
 3010 (2).

3011 ~~(9)(e)~~ The State Fire Marshal shall develop by rule an  
 3012 advanced training and certification program for firesafety  
 3013 inspectors having fire code management responsibilities. The  
 3014 program must be consistent with the appropriate provisions of  
 3015 NFPA 1037, or similar standards adopted by the division, and  
 3016 establish minimum training, education, and experience levels for  
 3017 firesafety inspectors having fire code management  
 3018 responsibilities.

3019 ~~(10)(f)~~ The department shall provide by rule for the  
 3020 certification of firesafety inspectors and Fire Code  
 3021 Administrators.  
 3022 Section 29. Section 633.085, Florida Statutes, is  
 3023 transferred, renumbered as section 633.218, Florida Statutes,  
 3024 and amended to read:

2969 exist:  
 2970 (a) Any cause for which issuance of a certificate could  
 2971 have been refused had it then existed and been known to the  
 2972 division State Fire Marshal.

2973 (b) Violation of this chapter or any rule or order of the  
 2974 State Fire Marshal.

2975 (c) Falsification of records relating to the certificate.

2976 ~~(d) Having been found guilty of or having pleaded guilty~~  
 2977 ~~or not a felony, whether or not a judgment of~~  
 2978 ~~conviction has been entered.~~

2979 ~~(d)(e)~~ Failure to meet any of the renewal requirements.

2980 ~~(f) Having been convicted of a crime in any jurisdiction~~  
 2981 ~~which directly relates to the practice of fire code inspection~~  
 2982 ~~plan review, or administration.~~

2983 ~~(e)(g)~~ Making or filing a report or record that the  
 2984 certificateholder knows to be false, or knowingly inducing  
 2985 another to file a false report or record, or knowingly failing  
 2986 to file a report or record required by state or local law, or  
 2987 knowingly impeding or obstructing such filing, or knowingly  
 2988 inducing another person to impede or obstruct such filing.

2989 ~~(f)(h)~~ Failing to properly enforce applicable fire codes  
 2990 or permit requirements within this state which the  
 2991 certificateholder knows are applicable by committing willful  
 2992 misconduct, gross negligence, gross misconduct, repeated  
 2993 negligence, or negligence resulting in a significant danger to  
 2994 life or property.

2995 ~~(g)(i)~~ Accepting labor, services, or materials at no  
 2996 charge or at a noncompetitive rate from any person who performs

3025 633.218 ~~633.065~~ Inspections of state buildings and  
 3026 premises; tests of firesafety equipment; building plans to be  
 3027 approved.—  
 3028 (1) (a) It is the duty of the State Fire Marshal and her or  
 3029 his agents to inspect, or cause to be inspected, each state-  
 3030 owned building on a recurring basis established by rule, and to  
 3031 ensure that high-hazard occupancies are inspected at least  
 3032 annually, for the purpose of ascertaining and causing to be  
 3033 corrected any conditions liable to cause fire or endanger life  
 3034 from fire and any violation of the firesafety standards for  
 3035 state-owned buildings, the provisions of this chapter, or the  
 3036 rules or regulations adopted and promulgated pursuant hereto.  
 3037 The State Fire Marshal shall, within 7 days following an  
 3038 inspection, submit a report of such inspection to the head of  
 3039 the ~~department of~~ state agency ~~government~~ responsible for the  
 3040 building.  
 3041 (b) Except as provided in s. 255.45, the department head  
 3042 is responsible for ensuring that deficiencies noted in the  
 3043 inspection are corrected as soon as practicable.  
 3044 (c) Each department shall, in its annual budget proposal,  
 3045 include requests for sufficient funds to correct any firesafety  
 3046 deficiencies noted by the State Fire Marshal.  
 3047 (d) Each department shall, in its annual budget proposal  
 3048 and for all proposals for new construction or renovations to  
 3049 existing structures, include requests for sufficient funds to  
 3050 pay for any charges or fees imposed by the State Fire Marshal  
 3051 for review of plans, renovations, occupancy, or inspections,  
 3052 whether recurring or high hazard.

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(e) For purposes of this section:  
 1.a. The term "high-hazard occupancy" means any building  
 or structure:  
 (I) That contains combustible or explosive matter or  
 flammable conditions dangerous to the safety of life or  
 property;  
 (II) At which persons receive educational instruction;  
 (III) At which persons reside, excluding private  
 dwellings; or  
 (IV) Containing three or more floor levels.  
 b. As used in this subparagraph, the phrase "building or  
 structure":  
 (I) Includes, but is not limited to, all hospitals and  
 residential health care facilities, nursing homes and other  
 adult care facilities, correctional or detention facilities,  
 public schools, public lodging establishments, migrant labor  
 camps, residential child care facilities, and self-service  
 gasoline stations.  
 (II) Does not include any residential condominium where  
 the declaration of condominium or the bylaws provide that the  
 rental of units shall not be permitted for less than 90 days.  
 2. The term "state-owned building," includes private  
 correctional facilities as defined under s. 944.710(3) and state  
 universities as defined under s. 1000.21(6).  
 (f) State-owned building or state-leased building or space  
 shall be identified through use of the United States National  
 Grid Coordinate System.  
 (2) The State Fire Marshal and her or his agents may ~~shall~~

(4) The division ~~of State Fire Marshal~~ may inspect state-owned buildings and space and state-leased buildings and space as necessary prior to occupancy or during construction, renovation, or alteration to ascertain compliance with the uniform firesafety standards. Whenever the division ~~of State Fire Marshal~~ determines by virtue of such inspection or by review of plans that construction, renovation, or alteration of state-owned buildings and state-leased buildings or space is not in compliance with the uniform firesafety standards, the division ~~of State Fire Marshal~~ shall issue an order to cease construction, renovation, or alteration, or to preclude occupancy, of a building until compliance is obtained, except for those activities required to achieve such compliance.

(5) The division ~~of State Fire Marshal~~ shall by rule provide a schedule of fees to pay for the costs of the inspections, whether recurring or high hazard, any firesafety review or plans for proposed construction, renovations, or occupancy, and related administrative expenses.

Section 30. Section 633.027, Florida Statutes, is transferred and renumbered as section 633.222, Florida Statutes, and subsection (3) of that section is amended, to read:

~~633.222~~ ~~633.027~~ Buildings with light-frame truss-type construction; notice requirements; enforcement.—  
 (1) The owner of any commercial or industrial structure, or any multiunit residential structure of three units or more, that uses light-frame truss-type construction shall mark the structure with a sign or symbol approved by the State Fire Marshal in a manner sufficient to warn persons conducting fire

conduct performance tests on any electronic fire warning and smoke detection system, and any pressurized air-handling unit, in any state-owned building or state-leased building or space on a recurring basis as provided in subsection (1). The State Fire Marshal and her or his agents shall also ensure that fire drills are conducted in all high-hazard state-owned buildings or high-hazard state-leased ~~high-hazard~~ occupancies at least annually.

(3) All construction of any new state-owned building or state-leased building or space, or any renovation, alteration, or change of occupancy of any existing, state-owned building or state-leased building or space shall comply with the uniform firesafety standards of the State Fire Marshal.

(a) For all new construction or renovation, alteration, or change of occupancy of state-leased space, compliance with the uniform firesafety standards shall be determined by reviewing the plans for the proposed construction or occupancy submitted by the lessor to the division ~~of State Fire Marshal~~ for review and approval prior to commencement of construction or occupancy, which review shall be completed within 10 working days after receipt of the plans by the division ~~of State Fire Marshal~~.

(b) The plans for all construction of any new, or renovation or alteration of any existing, state-owned building are subject to the review and approval of the division ~~of State Fire Marshal~~ for compliance with the uniform firesafety standards prior to commencement of construction or change of occupancy, which review shall be completed within 30 calendar days of receipt of the plans by the division ~~of State Fire Marshal~~.

3165 (2) A person who violates any provision of this section  
 3166 commits a misdemeanor of the second degree, punishable as  
 3167 provided in s. 775.082 or s. 775.083.  
 3168 Section 32. Section 633.557, Florida Statutes, is  
 3169 transferred and renumbered as section 633.226, Florida Statutes.  
 3170 Section 33. Section 633.161, Florida Statutes, is  
 3171 transferred, renumbered as section 633.228, Florida Statutes,  
 3172 and amended to read:  
 3173 ~~633.228~~ ~~633.161~~ Violations; orders to cease and desist,  
 3174 correct hazardous conditions, preclude occupancy, or vacate;  
 3175 enforcement; penalties.—  
 3176 (1) If it is determined by the department that a violation  
 3177 specified in this subsection exists, the State Fire Marshal or  
 3178 her or his deputy may issue and deliver to the person committing  
 3179 the violation an order to cease and desist from such violation,  
 3180 to correct any hazardous condition, to preclude occupancy of the  
 3181 affected building or structure, or to vacate the premises of the  
 3182 affected building or structure. Such violations are:  
 3183 (a) Except as set forth in paragraph (b), a violation of  
 3184 any provision of this chapter, of any rule adopted pursuant  
 3185 thereto, of any applicable uniform firesafety standard adopted  
 3186 pursuant to s. ~~633.206~~ ~~633.022~~ which is not adequately addressed  
 3187 by any alternative requirements adopted on a local level, or of  
 3188 any minimum firesafety standard adopted pursuant to s. 394.879.  
 3189 (b) A substantial violation of an applicable minimum  
 3190 firesafety standard adopted pursuant to s. ~~633.208~~ ~~633.025~~ which  
 3191 is not reasonably addressed by any alternative requirement  
 3192 imposed at the local level, or an unreasonable interpretation of

3137 control and other emergency operations of the existence of  
 3138 light-frame truss-type construction in the structure.  
 3139 (2) The State Fire Marshal shall adopt rules necessary to  
 3140 implement the provisions of this section, including, but not  
 3141 limited to:  
 3142 (a) The dimensions and color of such sign or symbol.  
 3143 (b) The time within which commercial, industrial, and  
 3144 multiunit residential structures that use light-frame truss-type  
 3145 construction shall be marked as required by this section.  
 3146 (c) The location on each commercial, industrial, and  
 3147 multiunit residential structure that uses light-frame truss-type  
 3148 construction where such sign or symbol must be posted.  
 3149 (3) The State Fire Marshal, and local fire officials in  
 3150 accordance with s. ~~633.118~~ ~~633.121~~, shall enforce the provisions  
 3151 of this section. Any owner who fails to comply with the  
 3152 requirements of this section is subject to penalties as provided  
 3153 in s. ~~633.228~~ ~~633.161~~.  
 3154 Section 31. Section 633.60, Florida Statutes, is  
 3155 renumbered as section 633.224, Florida Statutes, and subsection  
 3156 (1) of that section is amended, to read:  
 3157 ~~633.224~~ ~~633.60~~ Automatic fire sprinkler systems for one-  
 3158 family dwellings, two-family dwellings, and mobile homes.—  
 3159 (1) It is unlawful for any person to engage in the  
 3160 business or act in the capacity of a contractor of automatic  
 3161 fire sprinkler systems for one-family dwellings, two-family  
 3162 dwellings, and mobile homes without having been duly certified  
 3163 and holding a current certificate as a Contractor I, Contractor  
 3164 II, or Contractor IV as defined in s. ~~633.102(3)~~ ~~633.021~~.

3193 an applicable minimum firesafety standard, and which violation  
 3194 or interpretation clearly constitutes a danger to lifesafety.  
 3195 (c) A building or structure which is in a dilapidated  
 3196 condition and as a result thereof creates a danger to life,  
 3197 safety, or property.  
 3198 (d) A building or structure which contains explosive  
 3199 matter or flammable liquids or gases constituting a danger to  
 3200 life, safety, or property.  
 3201 (2) (a) If, during the conduct of a firesafety inspection  
 3202 authorized by ss. 633.216 and 633.218 ~~633.091 and 633.095~~, it is  
 3203 determined that a violation described in this section exists  
 3204 which poses an immediate danger to the public health, safety, or  
 3205 welfare, the State Fire Marshal may issue an order to vacate the  
 3206 building in question, which order shall be immediately effective  
 3207 and shall be an immediate final order under s. 120.569(2)(n).  
 3208 With respect to a facility under the jurisdiction of a district  
 3209 school board or community college board of trustees, the order  
 3210 to vacate shall be issued jointly by the district superintendent  
 3211 or college president and the State Fire Marshal.  
 3212 (b) The State Fire Marshal may seek an injunction in the  
 3213 circuit court of the county in which the building is located to  
 3214 enforce an order issued pursuant to this subsection.  
 3215 (3) Any person who violates or fails to comply with any  
 3216 order under subsection (1) or subsection (2) commits ~~is guilty~~  
 3217 ~~of~~ a misdemeanor, punishable as provided in s. 633.124 ~~633.171~~.  
 3218 Section 34. Part III of chapter 633, Florida Statutes,  
 3219 consisting of sections 633.302, 633.304, 633.306, 633.308,  
 3220 633.312, 633.314, 633.316, 633.318, 633.322, 633.324, 633.326,

3221 633.328, 633.332, 633.334, 633.336, 633.338, 633.342, 633.344,  
 3222 633.346, 633.348, and 633.3482, is created and entitled "Fire  
 3223 Protection and Suppression."  
 3224 Section 35. Section 633.511, Florida Statutes, is  
 3225 transferred and renumbered as subsections (1), (2), and (3) of  
 3226 section 633.302, Florida Statutes, and amended, and section  
 3227 633.514, Florida Statutes, is transferred and renumbered as  
 3228 subsections (4) and (5) of that section, to read:  
 3229 633.302 ~~633.511~~ Florida Fire Safety Board; membership;  
 3230 duties; meetings. -  
 3231 (1) The Florida Fire Safety Board is created consisting of  
 3232 seven members who are citizens and residents of this state. One  
 3233 shall be the State Fire Marshal, or her or his designee  
 3234 ~~designated appointee~~ who shall be an administrative employee of  
 3235 the marshal; one shall be an administrative officer from a  
 3236 building department representing an incorporated municipality or  
 3237 a county; one shall be an administrative officer from a fire  
 3238 department representing an incorporated municipality or a  
 3239 county; two shall be contractors licensed pursuant to s. 633.318  
 3240 ~~633.521~~; and two shall be persons who hold valid licenses under  
 3241 s. 633.304 ~~633.061~~.  
 3242 (2) (a) To be eligible for appointment, each contractor  
 3243 shall personally hold a current certificate of competency and a  
 3244 current license issued by the division ~~State Fire Marshal~~,  
 3245 together with an unexpired occupational license to operate as a  
 3246 contractor issued by an incorporated municipality or a county;  
 3247 be actively engaged in such business and have been so engaged  
 3248 for a period of not less than 5 consecutive years before the

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3249 date of her or his appointment; and be a citizen and resident of  
 3250 the state.  
 3251 (b) To be eligible for appointment, each fire equipment  
 3252 dealer shall personally hold a current Class A, B, or C and  
 3253 Class D fire equipment dealer license issued by the division  
 3254 ~~State Fire Marshal~~, together with an unexpired occupational  
 3255 license to operate as a fire equipment dealer issued by an  
 3256 incorporated municipality or a county; shall be actively engaged  
 3257 in such business and have been so engaged for a period of not  
 3258 less than 5 consecutive years before the date of appointment;  
 3259 and shall be a citizen and resident of this state.

3260 (3) The State Fire Marshal's term on the board, or that of  
 3261 her or his designee ~~designated administrative employee~~, shall  
 3262 coincide with the State Fire Marshal's term of office. Of the  
 3263 other six members of the board, one member shall be appointed  
 3264 for a term of 1 year, one member for a term of 2 years, two  
 3265 members for terms of 3 years, and two members for terms of 4  
 3266 years. All terms expire on June 30 of the last year of the term.  
 3267 When effective July 1, 1997, ~~as~~ the term of a each member  
 3268 expires, the State Fire Marshal shall appoint a member to fill  
 3269 the vacancy for a term of 4 years. The State Fire Marshal may  
 3270 remove any appointed member for cause. A vacancy in the  
 3271 membership of the board for any cause shall be filled by  
 3272 appointment by the State Fire Marshal for the balance of the  
 3273 unexpired term.

3274 ~~633.514 Board duties meetings officers quorum~~  
 3275 ~~competency seal~~  
 3276 (4) ~~(4)~~ The board shall act in an advisory capacity to the

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3277 State Fire Marshal and shall meet regularly as the need presents  
 3278 itself. The board shall have the authority to review complaints  
 3279 and disputed administrative action and make recommendations for  
 3280 disciplinary action to the division at the request of the  
 3281 licenseholder, permit holder, or certificateholder. The board  
 3282 will serve in an advisory capacity to the division regarding  
 3283 rules, codes, standards, interpretations, and training. As soon  
 3284 as practicable after the effective date of this act, the board  
 3285 shall meet to elect officers from its membership, whose terms  
 3286 shall expire on June 30 and annually thereafter. A majority of  
 3287 the board shall constitute a quorum. No member of the advisory  
 3288 board shall be paid a salary as such member, but each shall  
 3289 receive necessary expenses while attending advisory board  
 3290 meetings and reimbursement, including travel in performance of  
 3291 his or her duties, as provided in s. 112.061.

3292 (5) ~~(4)~~ The board shall adopt a seal for its use containing  
 3293 the words "Florida Fire Safety Board."  
 3294 Section 36. Section 633.061, Florida Statutes, is  
 3295 renumbered as section 633.304, Florida Statutes, and subsections  
 3296 (1), (2), (3), (4), and (9) of that section are amended, to  
 3297 read:

3298 633.304 ~~633.061~~ Fire suppression equipment; license to  
 3299 install or maintain.—  
 3300 (1) It is unlawful for any organization or individual to  
 3301 engage in the business of servicing, repairing, recharging,  
 3302 testing, marking, inspecting, installing, or hydrotesting any  
 3303 fire extinguisher or preengineered system in this state except  
 3304 in conformity with the provisions of this chapter. Each



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3333 and conducting hydrostatic tests on all types of fire  
 3334 extinguishers, except carbon dioxide units.  
 3335 (c) Class C: ~~.....\$150~~  
 3336 To service, recharge, repair, install, or inspect all types of  
 3337 fire extinguishers, except recharging carbon dioxide units, and  
 3338 to conduct hydrostatic tests on all types of fire extinguishers,  
 3339 except carbon dioxide units.  
 3340 (d) Class D: ~~.....\$200~~  
 3341 To service, repair, recharge, hydrotest, install, or inspect all  
 3342 types of preengineered fire extinguishing systems.  
 3343 ~~(e) Licenses issued as duplicates or to reflect a change~~  
 3344 ~~of address.....\$10~~  
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3305 organization or individual that engages in such activity must  
 3306 possess a valid and subsisting license issued by the division  
 3307 ~~State Fire Marshal~~. All fire extinguishers and preengineered  
 3308 systems required by statute or by rule must be serviced by an  
 3309 organization or individual licensed under the provisions of this  
 3310 chapter. A licensee who receives appropriate training shall not  
 3311 be prohibited by a manufacturer from servicing any particular  
 3312 brand of fire extinguisher or preengineered system. The licensee  
 3313 is legally qualified to act for the business organization in all  
 3314 matters connected with its business, and the licensee must  
 3315 supervise all activities undertaken by such business  
 3316 organization. Each licensee shall maintain a specific business  
 3317 location. A further requirement, in the case of multiple  
 3318 locations where such servicing or recharging is taking place, is  
 3319 that each licensee who maintains more than one place of business  
 3320 where actual work is carried on must possess an additional  
 3321 license, as set forth in this section, for each location, except  
 3322 that a licensed individual may not qualify for more than five  
 3323 locations. A licensee is limited to a specific type of work  
 3324 performed depending upon the class of license held. Licenses ~~and~~  
 3325 ~~license fees~~ are required for the following:  
 3326 (a) Class A: ~~.....\$250~~  
 3327 To service, recharge, repair, install, or inspect all types of  
 3328 fire extinguishers and to conduct hydrostatic tests on all types  
 3329 of fire extinguishers.  
 3330 (b) Class B: ~~.....\$150~~  
 3331 To service, recharge, repair, install, or inspect all types of  
 3332 fire extinguishers, including recharging carbon dioxide units

CODING: Words ~~strike~~ are deletions; words underlined are additions.

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3361 withdrawal to the division. The dealer must also submit to an

3362 inspection by the State Fire Marshal or his or her designee in

3363 order to determine that the dealer possesses the equipment

3364 required to service, inspect, recharge, repair, hydrotest, or

3365 install halon equipment.

3366 (2) A person who holds a valid fire equipment dealer

3367 license may maintain such license in an inactive status during

3368 which time he or she may not engage in any work under the

3369 definition of the license held. An inactive status license shall

3370 be void after 4 ~~2~~ years or at the time that the license is

3371 renewed, whichever comes first. ~~the biennial renewal fee for an~~

3372 ~~inactive status license shall be \$75.~~ An inactive status license

3373 may not be reactivated unless the continuing education

3374 requirements of this chapter have been fulfilled.

3375 (3) Each individual actually performing the work of

3376 servicing, recharging, repairing, hydrotesting, installing,

3377 testing, or inspecting fire extinguishers or preengineered

3378 systems must possess a valid and subsisting permit issued by the

3379 division State Fire Marshal. Permittees are limited as to

3380 specific type of work performed to allow work no more extensive

3381 than the class of license held by the licensee under whom the

3382 permittee is working. Permits will be issued by the division ~~and~~

3383 ~~the fees required are~~ as follows:

3384 (a) Portable permit.....\$90

3385 "Portable permittee" means a person who is limited to performing

3386 work no more extensive than the employing licensee in the

3387 servicing, recharging, repairing, installing, or inspecting all

3388 types of portable fire extinguishers.

3389 (b) Preengineered permit.....\$120

3390 "Preengineered permittee" means a person who is limited to the

3391 servicing, recharging, repairing, installing, or inspecting of

3392 all types of preengineered fire extinguishing systems.

3393 ~~(e) Permits issued as duplicates or to reflect a change of~~

3394 ~~address.....\$10~~

3395

3396 Any fire equipment permittee licensed pursuant to this

3397 subsection who does not want to engage in servicing, inspecting,

3398 recharging, repairing, hydrotesting, or installing halon

3399 equipment must file an affidavit on a form provided by the

3400 division so stating. Permits will be issued by the division to

3401 reflect the work authorized thereunder. It is unlawful,

3402 unlicensed activity for any person or firm to falsely hold

3403 himself or herself out to perform any service, inspection,

3404 recharge, repair, hydrotest, or installation except as

3405 specifically described in the permit.

3406 (4) (a) Such licenses and permits shall be issued by the

3407 division State Fire Marshal for 2 years beginning January 1,

3408 2000, and each 2-year period thereafter and expiring December 31

3409 of the second year. All licenses or permits issued will expire

3410 on December 31 of each odd-numbered year. The failure to renew a

3411 license or permit by December 31 of the second year will cause

3412 the license or permit to become inoperative. The holder of an

3413 inoperative license or permit shall not engage in any activities

3414 for which a license or permit is required by this section. A

3415 license or permit which is inoperative because of the failure to

3416 renew it shall be restored upon payment of the applicable fee



3445 there shall be included in such forms the following matters.  
 3446 Each such application shall be in such form as to provide that  
 3447 the data and other information set forth therein shall be sworn  
 3448 to by the applicant or, if a corporation, by an officer thereof.  
 3449 An application for a permit shall include the name of the  
 3450 licensee employing such permittee, and the permit issued in  
 3451 pursuance of such application shall also set forth the name of  
 3452 such licensee. A permit is valid solely for use by the holder  
 3453 thereof in his or her employment by the licensee named in the  
 3454 permit.

3417 plus a penalty equal to the applicable fee, if the application  
 3418 for renewal is filed no later than the following March 31. If  
 3419 the application for restoration is not made before the March  
 3420 31st deadline, the fee for restoration shall be equal to the  
 3421 original application fee and the penalty provided for herein,  
 3422 and, in addition, the State Fire Marshal shall require  
 3423 reexamination of the applicant. The fee for a license or permit  
 3424 issued for 1 year or less shall be prorated at 50 percent of the  
 3425 applicable fee for a biennial license or permit.

3455 ~~(d)~~ (d) A license of any class shall not be issued or  
 3456 renewed by the division State Fire Marshal and a license of any  
 3457 class shall not remain operative unless:  
 3458 1. The applicant has submitted to the State Fire Marshal  
 3459 evidence of registration as a Florida corporation or evidence of  
 3460 compliance with s. 865.09.

3426 (b) After initial licensure, each licensee or permittee  
 3427 must successfully complete a course or courses of continuing  
 3428 education for fire equipment technicians of at least 16 hours. A  
 3429 license or permit may not be renewed unless the licensee or  
 3430 permittee produces documentation of the completion of at least  
 3431 16 hours of continuing education for fire equipment technicians  
 3432 during the biennial licensure period. A person who is both a  
 3433 licensee and a permittee shall be required to complete 16 hours  
 3434 of continuing education during each renewal period. Each  
 3435 licensee shall ensure that all permittees in his or her  
 3436 employment meet their continuing education requirements. The  
 3437 State Fire Marshal shall adopt rules describing the continuing  
 3438 education requirements and shall have the authority upon  
 3439 reasonable belief, to audit a fire equipment dealer to determine  
 3440 compliance with continuing education requirements.

3461 2. The State Fire Marshal or his or her designee has by  
 3462 inspection determined that the applicant possesses the equipment  
 3463 required for the class of license sought. The State Fire Marshal  
 3464 shall give an applicant a reasonable opportunity to correct any  
 3465 deficiencies discovered by inspection. To obtain such  
 3466 inspection, an applicant with facilities located outside this  
 3467 state must:  
 3468 a. Provide a notarized statement from a professional  
 3469 engineer licensed by the applicant's state of domicile  
 3470 certifying that the applicant possesses the equipment required  
 3471 for the class of license sought and that all such equipment is  
 3472 operable; or

3441 ~~(c)~~ (c) The forms of such licenses and permits and  
 3442 applications therefor shall be prescribed by the State Fire  
 3443 Marshal; in addition to such other information and data as that  
 3444 officer determines is appropriate and required for such forms,

3501 suspension of the license until proof of proper insurance is  
 3502 provided to the State Fire Marshal. An insurer which provides  
 3503 such coverage shall notify the State Fire Marshal of any change  
 3504 in coverage or of any termination, cancellation, or nonrenewal  
 3505 of any coverage.  
 3506 4. The applicant applies to the State Fire Marshal,  
 3507 provides proof of experience, and successfully completes a  
 3508 prescribed training course offered by the State Fire College or  
 3509 an equivalent course approved by the State Fire Marshal. This  
 3510 subparagraph does not apply to any holder of or applicant for a  
 3511 permit under paragraph ~~(g)(4)~~ or to a business organization or a  
 3512 governmental entity seeking initial licensure or renewal of an  
 3513 existing license solely for the purpose of inspecting,  
 3514 servicing, repairing, marking, recharging, and maintaining fire  
 3515 extinguishers used and located on the premises of and owned by  
 3516 such organization or entity.  
 3517 5. The applicant has a current retester identification  
 3518 number that is appropriate for the license for which the  
 3519 applicant is applying and that is listed with the United States  
 3520 Department of Transportation.  
 3521 6. The applicant has passed, with a grade of at least 70  
 3522 percent, a written examination testing his or her knowledge of  
 3523 the rules and statutes regulating the activities authorized by  
 3524 the license and demonstrating his or her knowledge and ability  
 3525 to perform those tasks in a competent, lawful, and safe manner.  
 3526 Such examination shall be developed and administered by the  
 3527 State Fire Marshal, or his or her designee in accordance with  
 3528 policies and procedures of the State Fire Marshal. An applicant

3473 b. Allow the State Fire Marshal or his or her designee to  
 3474 inspect the facility. All costs associated with the State Fire  
 3475 Marshal's inspection shall be paid by the applicant. The State  
 3476 Fire Marshal, in accordance with s. 120.54, is authorized to  
 3477 adopt rules to establish standards for the calculation and  
 3478 establishment of the amount of costs associated with any  
 3479 inspection conducted by the State Fire Marshal under this  
 3480 section. Such rules shall include procedures for invoicing and  
 3481 receiving funds in advance of the inspection. A fee of \$50  
 3482 payable to the State Fire Marshal, shall be required for any  
 3483 subsequent reinspection.  
 3484 3. The applicant has submitted to the State Fire Marshal  
 3485 proof of insurance providing coverage for comprehensive general  
 3486 liability for bodily injury and property damage, products  
 3487 liability, completed operations, and contractual liability. The  
 3488 State Fire Marshal shall adopt rules providing for the amounts  
 3489 of such coverage, but such amounts shall not be less than  
 3490 \$300,000 for Class A or Class D licenses, \$200,000 for Class B  
 3491 licenses, and \$100,000 for Class C licenses; and the total  
 3492 coverage for any class of license held in conjunction with a  
 3493 Class D license shall not be less than \$300,000. The State Fire  
 3494 Marshal may, at any time after the issuance of a license or its  
 3495 renewal, require upon demand, and in no event more than 30 days  
 3496 after notice of such demand, the licensee to provide proof of  
 3497 insurance, on a form provided by the State Fire Marshal,  
 3498 containing confirmation of insurance coverage as required by  
 3499 this chapter. Failure, for any length of time, to provide proof  
 3500 of insurance coverage as required shall result in the immediate

3529 shall pay a nonrefundable examination fee of \$50 for each  
 3530 examination or reexamination scheduled. No reexamination shall  
 3531 be scheduled sooner than 30 days after any administration of an  
 3532 examination to an applicant. No applicant shall be permitted to  
 3533 take an examination for any level of license more than a total  
 3534 of four times during 1 year, regardless of the number of  
 3535 applications submitted. As a prerequisite to licensure of the  
 3536 applicant, he or she:  
 3537     a. Must be at least 18 years of age.  
 3538     b. Must have 4 years of proven experience as a fire  
 3539 equipment permittee at a level equal to or greater than the  
 3540 level of license applied for or have a combination of education  
 3541 and experience determined to be equivalent thereto by the State  
 3542 Fire Marshal. Having held a permit at the appropriate level for  
 3543 the required period constitutes the required experience.  
 3544     c. Must not have been convicted of a felony or a crime  
 3545 punishable by imprisonment of 1 year or more under the law of  
 3546 the United States or of any state thereof or under the law of  
 3547 any other country, or pled nolo contendere to, any felony.  
 3548 "Convicted" means a finding of guilt or the acceptance of a plea  
 3549 of guilty or nolo contendere in any federal or state court or a  
 3550 court in any other country, without regard to whether a judgment  
 3551 of conviction has been entered by the court having jurisdiction  
 3552 of the case. If an applicant has been convicted of any such  
 3553 felony, the applicant shall be excluded from licensure for a  
 3554 period of 4 years after expiration of sentence or final release  
 3555 by the Parole Commission unless the applicant, before the  
 3556 expiration of the 4-year period, has received a full pardon or

3557 has had his or her civil rights restored must comply with a-  
 3558 112.011(1)-(b).  
 3559  
 3560 This subparagraph does not apply to any holder of or applicant  
 3561 for a permit under paragraph (g) ~~(f)~~ or to a business  
 3562 organization or a governmental entity seeking initial licensure  
 3563 or renewal of an existing license solely for the purpose of  
 3564 inspecting, servicing, repairing, marking, recharging,  
 3565 hydrotesting, and maintaining fire extinguishers used and  
 3566 located on the premises of and owned by such organization or  
 3567 entity.  
 3568 ~~(d) An applicant who fails the examination may take it~~  
 3569 ~~three more times during the 1 year period after he or she~~  
 3570 ~~originally filed an application for the examination. If the~~  
 3571 ~~applicant fails the examination within 1 year after the~~  
 3572 ~~application date and seeks to retake the examination, he or she~~  
 3573 ~~must file a new application, pay the application and examination~~  
 3574 ~~fees, and successfully complete a prescribed training course~~  
 3575 ~~approved by the State Fire College or an equivalent course~~  
 3576 ~~approved by the State Fire Marshal. An applicant may not submit~~  
 3577 ~~a new application within 6 months after the date of his or her~~  
 3578 ~~last reexamination.~~  
 3579     (e) A fire equipment dealer licensed under this section  
 3580 may apply to convert ~~upgrade~~ the license currently held to a  
 3581 higher licensing category, if the licensed dealer:  
 3582     1. Submits an application for the license on a form in  
 3583 conformance with paragraph (c) ~~(b)~~. The application must be  
 3584 accompanied by a fee as prescribed in s. 633.132 ~~subsection (1)~~

3585 for the type of license requested.

3586 2. Provides evidence of 2 years' experience as a licensed

3587 dealer and meets such relevant educational requirements as are

3588 established by rule by the State Fire Marshal for purposes of

3589 upgrading a license.

3590 3. Meets the requirements of paragraph (d)~~(e)~~.

3591 (f) A fire equipment dealer licensed under this section

3592 may apply to convert the license currently held to a lower

3593 licensing category, if the license dealer:

3594 1. Submits an application for the license on a form in

3595 conformance with paragraph (c). The application must be

3596 accompanied by a fee as prescribed in s. 633.132 for the type of

3597 license requested.

3598 2. Submits proof of insurance providing coverage meeting

3599 the requirements prescribed in subparagraph (d)3.

3600 3. Submits to an inspection of the facility to ensure all

3601 equipment associated with the higher class of license has been

3602 removed and submits the required reinspection fee.

3603 (g) No permit of any class shall be issued or renewed to a

3604 person by the division ~~State Fire Marshal~~, and no permit of any

3605 class shall remain operative, unless the person has:

3606 1. Submitted a nonrefundable examination fee in the amount

3607 of \$50;

3608 2. Successfully completed a training course offered by the

3609 State Fire College or an equivalent course approved by the State

3610 Fire Marshal; and

3611 3. Passed, with a grade of at least 70 percent, a written

3612 examination testing his or her knowledge of the rules and

3613 statutes regulating the activities authorized by the permit and

3614 demonstrating his or her knowledge and ability to perform those

3615 tasks in a competent, lawful, and safe manner. Such examination

3616 shall be developed and administered by the State Fire Marshal in

3617 accordance with the policies and procedures of the State Fire

3618 Marshal. An examination fee shall be paid for each examination

3619 scheduled. No reexamination shall be scheduled sooner than 30

3620 days after any administration of an examination to an applicant.

3621 No applicant shall be permitted to take an examination for any

3622 level of permit more than four times during 1 year, regardless

3623 of the number of applications submitted. As a prerequisite to

3624 taking the permit examination, the applicant must be at least 16

3625 years of age.

3626 (h) ~~(e)~~ An applicant for a license or permit under this

3627 section who fails the examination may take it three more times

3628 during the 1-year period after he or she originally filed an

3629 application for the examination. If the applicant fails the

3630 examination within 1 year after the application date and he or

3631 she seeks to retake the examination, he or she must file a new

3632 application, pay the application and examination fees, and

3633 successfully complete a prescribed training course offered by

3634 the State Fire College or an equivalent course approved by the

3635 State Fire Marshal. The applicant may not submit a new

3636 application within 6 months after the date of his or her fourth

3637 ~~test~~ reexamination. An applicant who passes the examination but

3638 does not meet the remaining qualifications prescribed by law and

3639 rule within 1 year after the application date must file a new

3640 application, pay the application and examination fee,

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3669 or permit upon demand. In addition, every permittee shall at all  
 3670 times carry an identification card containing his or her  
 3671 photograph and other identifying information as prescribed by  
 3672 the State Fire Marshal or the State Fire Marshal's designee,  
 3673 which shall be produced on demand. The State Fire Marshal shall  
 3674 supply this card at a fee which shall be related to the cost of  
 3675 producing the card.  
 3676 (8) The fees collected for any such licenses and permits  
 3677 and the filing fees for license and permit examination are  
 3678 hereby appropriated for the use of the State Fire Marshal in the  
 3679 administration of this chapter and shall be deposited in the  
 3680 Insurance Regulatory Trust Fund.  
 3681 (9) The provisions of this section ~~chapter~~ do not apply to  
 3682 inspections by fire chiefs, fire inspectors, fire marshals, or  
 3683 insurance company inspectors.  
 3684 (10) All fire extinguishers and preengineered systems that  
 3685 are required by statute or by rule must be serviced, recharged,  
 3686 repaired, hydrotested, tested, inspected, and installed in  
 3687 compliance with this chapter and with the rules adopted by the  
 3688 State Fire Marshal. The State Fire Marshal may adopt by rule the  
 3689 standards of the National Fire Protection Association and of  
 3690 other reputable national organizations.  
 3691 (11) If the licensee leaves the business organization or  
 3692 dies, the business organization shall immediately notify the  
 3693 State Fire Marshal of the licensee's departure, shall return the  
 3694 license to the State Fire Marshal, and shall have a grace period  
 3695 of 60 days in which to license another person under the  
 3696 provisions of this chapter, failing which the business shall no

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3641 successfully complete a prescribed training course approved by  
 3642 the State Fire College or an equivalent course approved by the  
 3643 State Fire Marshal, and pass the written examination.  
 3644 (5) (a) No one that is being trained shall perform work  
 3645 requiring a permit unless an individual possessing a valid and  
 3646 current fire equipment permit for the type of work performed is  
 3647 physically present. The trainee must:  
 3648 1. Be 18 years of age.  
 3649 2. Possess on his or her person at all times a valid  
 3650 Florida driver's license or a valid state identification card,  
 3651 issued by the Department of Highway Safety and Motor Vehicles. A  
 3652 trainee must produce identification to the State Fire Marshal or  
 3653 his or her designated representative upon demand.  
 3654 (b) No more than two trainees shall be under the  
 3655 supervision of a single trainer, who shall be directly  
 3656 responsible for all work performed by any trainee while under  
 3657 his or her supervision. No trainee shall perform any work not  
 3658 within the scope of the license or permit held by the fire  
 3659 equipment dealer or permittee directly supervising his or her  
 3660 work.  
 3661 (6) The State Fire Marshal shall adopt rules providing for  
 3662 the approval of the time, place, and curriculum of each training  
 3663 course required by this section.  
 3664 (7) Every permittee must have a valid and subsisting  
 3665 permit upon his or her person at all times while engaging in the  
 3666 servicing, recharging, repairing, testing, inspecting, or  
 3667 installing of fire extinguishers and preengineered systems, and  
 3668 every licensee or permittee must be able to produce such license

3697 longer perform those activities for which a license under this  
 3698 section is required.  
 3699 Section 37. Section 633.065, Florida Statutes, is  
 3700 transferred and renumbered as section 633.306, Florida Statutes,  
 3701 and paragraph (a) of subsection (1) of that section is amended,  
 3702 to read:  
 3703 ~~633.306~~ ~~633.065~~ Requirements for installation, inspection,  
 3704 and maintenance of fire suppression equipment.—  
 3705 (1) The requirements for installation of fire  
 3706 extinguishers and preengineered systems are as follows:  
 3707 (a) Fire equipment dealers shall be licensed under s.  
 3708 ~~633.304~~ ~~633.064~~.  
 3709 (b) Equipment supplied shall be listed by a nationally  
 3710 recognized testing laboratory, such as Underwriters  
 3711 Laboratories, Inc., or Factory Mutual Laboratories, Inc.  
 3712 Equipment supplied for new installations or alterations of  
 3713 existing systems must be currently listed as described in this  
 3714 section. The State Fire Marshal shall adopt by rule procedures  
 3715 for determining whether a laboratory is nationally recognized,  
 3716 taking into account the laboratory's facilities, procedures, use  
 3717 of nationally recognized standards, and any other criteria  
 3718 reasonably calculated to reach an informed determination.  
 3719 (c) Equipment shall be installed in accordance with the  
 3720 applicable standards of the National Fire Protection Association  
 3721 and the manufacturer's drawings and specifications.  
 3722 (d) Each piece of equipment supplied shall be guaranteed  
 3723 for a period of 1 year against defects in material or operation.  
 3724 (e) The fire equipment dealer shall furnish the consumer

3725 with: the manufacturer's descriptive literature, including the  
 3726 specifications and maintenance requirements as approved by the  
 3727 nationally recognized testing laboratory; the operating  
 3728 instructions for all equipment installed; the mechanical  
 3729 drawings and specifications for proper installation and use of  
 3730 equipment; and a diagram of the final installation, if  
 3731 applicable.  
 3732 (2) Equipment shall be inspected, serviced, and maintained  
 3733 in accordance with the manufacturer's maintenance procedures and  
 3734 with the applicable National Fire Protection Association  
 3735 standards.  
 3736 Section 38. Section 633.071, Florida Statutes, is  
 3737 transferred and renumbered as section 633.308, Florida Statutes,  
 3738 and subsection (2) of that section is amended, to read:  
 3739 ~~633.308~~ ~~633.071~~ Standard service tag required on all fire  
 3740 extinguishers and preengineered systems; serial number required  
 3741 on all portable fire extinguishers; standard inspection tags  
 3742 required on all fire protection systems.—  
 3743 (1) The State Fire Marshal shall adopt by rule  
 3744 specifications as to the size, shape, color, and information and  
 3745 data contained thereon of service tags to be attached to all  
 3746 fire extinguishers and preengineered systems required by statute  
 3747 or by rule, whether they be portable, stationary, or on wheels  
 3748 when they are placed in service, installed, serviced, repaired,  
 3749 tested, recharged, or inspected. Fire extinguishers may be  
 3750 tagged only after meeting all standards as set forth by this  
 3751 chapter, the standards of the National Fire Protection  
 3752 Association, and manufacturer's specifications. Preengineered



3753 systems may be tagged only after a system has been inspected,  
 3754 serviced, installed, repaired, tested, recharged, and  
 3755 hydrotested in compliance with this chapter, the standards of  
 3756 the National Fire Protection Association, and the manufacturer's  
 3757 specifications, and after a report, as specified by rule, has  
 3758 been completed in detail, indicating any and all deficiencies or  
 3759 deviations from the manufacturer's specifications and the  
 3760 standards of the National Fire Protection Association. A copy of  
 3761 the inspection report shall be provided to the owner at the time  
 3762 of inspection, and, if a system is found to be in violation of  
 3763 this chapter, the manufacturer's specifications, or the  
 3764 standards of the National Fire Protection Association, a copy  
 3765 shall be forwarded to the state or local authority having  
 3766 jurisdiction within 30 days from the date of service. It shall  
 3767 be unlawful to place in service, service, test, repair, inspect,  
 3768 install, hydrotest, or recharge any fire extinguisher or  
 3769 preengineered system without attaching one of these tags  
 3770 completed in detail, including the actual month work was  
 3771 performed, or to use a tag not meeting the specifications set  
 3772 forth by the State Fire Marshal.  
 3773 (2) All portable fire extinguishers required by statute or  
 3774 by rule shall be listed by Underwriters Laboratories, Inc., or  
 3775 approved by Factory Mutual Laboratories, Inc., or listed by a  
 3776 nationally recognized testing laboratory in accordance with  
 3777 procedures adopted pursuant to s. 633.314(2) ~~633.083(2)~~, and  
 3778 carry an Underwriters Laboratories, Inc., or manufacturer's  
 3779 serial number. These listings, approvals, and serial numbers may  
 3780 be stamped on the manufacturer's identification and instructions

3781 plate or on a separate Underwriters Laboratories, Inc., or  
 3782 Factory Mutual Laboratories, Inc., plate soldered or attached to  
 3783 the extinguisher shell in some permanent manner.  
 3784 (3) The State Fire Marshal shall adopt by rule  
 3785 specifications as to the size, shape, color, information, and  
 3786 data contained thereon of inspection tags to be attached to all  
 3787 types of fire protection systems and information required on an  
 3788 inspection report of such an inspection.  
 3789 Section 39. Section 633.082, Florida Statutes, is  
 3790 transferred and renumbered as section 633.312, Florida Statutes,  
 3791 and subsections (2) and (3) of that section are amended, to  
 3792 read:  
 3793 633.312 ~~633.082~~ Inspection of fire control systems, fire  
 3794 hydrants, and fire protection systems.—  
 3795 (1) The State Fire Marshal shall have the right to inspect  
 3796 any fire control system during and after construction to  
 3797 determine that such system meets the standards set forth in the  
 3798 laws and rules of the state.  
 3799 (2) Fire hydrants and fire protection systems installed in  
 3800 public and private properties, except one-family or two-family  
 3801 dwellings, shall be inspected following procedures established  
 3802 in the nationally recognized inspection, testing, and  
 3803 maintenance standards publications NFPA-24 and NFPA-25 as set  
 3804 forth in the edition adopted by the State Fire Marshal.  
 3805 Quarterly, annual, 3-year, and 5-year inspections consistent  
 3806 with the contractual provisions with the owner shall be  
 3807 conducted by the certificateholder or permittees employed by the  
 3808 certificateholder pursuant to s. 633.318 ~~633.521~~, except that:

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3809 (a) Public fire hydrants owned by a governmental entity  
 3810 shall be inspected following procedures established in the  
 3811 inspection, testing, and maintenance standards adopted by the  
 3812 State Fire Marshal or equivalent standards such as those  
 3813 contained in the latest edition of the American Water Works  
 3814 Association's Manual M17, "Installation, Field Testing, and  
 3815 Maintenance of Fire Hydrants."  
 3816 (b) County, municipal, and special district utilities may  
 3817 perform fire hydrant inspections required by this section using  
 3818 designated employees. Such designated employees need not be  
 3819 certified under this chapter. However, counties, municipalities,  
 3820 or special districts that use designated employees are  
 3821 responsible for ensuring that the designated employees are  
 3822 qualified to perform such inspections.  
 3823 (3) The inspecting contractor shall provide to the  
 3824 building owner or hydrant owner and the local authority having  
 3825 jurisdiction a copy of the applicable inspection report  
 3826 established under this chapter. The maintenance of fire hydrant  
 3827 and fire protection systems as well as corrective actions on  
 3828 deficient systems is the responsibility of the owner of the  
 3829 system or hydrant. Equipment requiring periodic testing or  
 3830 operation to ensure its maintenance shall be tested or operated  
 3831 as specified in the Fire Prevention Code, Life Safety Code,  
 3832 National Fire Protection Association standards, or as directed  
 3833 by the appropriate authority ~~agency having jurisdiction~~,  
 3834 provided that such appropriate authority ~~agency~~ shall not  
 3835 require a sprinkler system not required by the Fire Prevention  
 3836 Code, Life Safety Code, or National Fire Protection Association

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3837 standards to be removed regardless of its condition. This  
 3838 section does not prohibit governmental entities from inspecting  
 3839 and enforcing firesafety codes.  
 3840 (4) At least once each year, each fire hydrant shall be  
 3841 opened fully and the water allowed to flow until all foreign  
 3842 materials have cleared the hydrant. The flow shall be maintained  
 3843 for not less than 1 minute.  
 3844 (5) If a fire hydrant is made nonfunctional by the closing  
 3845 of a water supply valve, the valve must immediately be tagged  
 3846 with a red tag that is boldly marked "nonfunctional" and the  
 3847 local fire authority notified that the hydrant is nonfunctional.  
 3848 Section 40. Section 633.083, Florida Statutes, is  
 3849 transferred and renumbered as section 633.314, Florida Statutes,  
 3850 and subsection (3) of that section is amended, to read:  
 3851 633.314 ~~633.083~~ Sale or use of certain types of fire  
 3852 extinguishers prohibited; penalty.—  
 3853 (1) (a) It is unlawful to have for use any of the following  
 3854 types of fire extinguishers:  
 3855 1. Carbon tetrachloride;  
 3856 2. Chlorobromomethane;  
 3857 3. Dibromodifluoromethane (commonly known as Halon 1202);  
 3858 4. Dichlorodifluoromethane;  
 3859 5. Azeotropic chloromethane;  
 3860 6. 1,2 dibromo-2-chloro-1, 1,2 trifluoroethane;  
 3861 7. 1,2 dibromo-2, 2-difluoroethane;  
 3862 8. Methyl bromide;  
 3863 9. Ethylene dibromide;  
 3864 10. Hydrogen bromide;



3893 transferred and renumbered as section 633.316, Florida Statutes,  
 3894 and subsection (1) and paragraph (e) of subsection (4) of that  
 3895 section are amended, to read:  
 3896 633.316 ~~633.162~~ Fire suppression system contractors;  
 3897 disciplinary action.—  
 3898 (1) The violation of any provision of this chapter or any  
 3899 rule adopted and promulgated pursuant hereto or the failure or  
 3900 refusal to comply with any notice or order to correct a  
 3901 violation or any cease and desist order by any person who  
 3902 possesses a license or permit issued pursuant to s. 633.304  
 3903 ~~633.064~~ is cause for denial, nonrenewal, revocation, or  
 3904 suspension of such license or permit by the State Fire Marshal  
 3905 after such officer has determined that the person is guilty of  
 3906 such violation. An order of suspension shall state the period of  
 3907 time of such suspension, which period may not be in excess of 2  
 3908 years from the date of such order. An order of revocation may be  
 3909 entered for a period not exceeding 5 years. Such orders shall  
 3910 effect suspension or revocation of all licenses or permits  
 3911 issued by the division to ~~then held by~~ the person, and during  
 3912 such period of time no license or permit shall be issued by the  
 3913 division to such person. During the suspension or revocation of  
 3914 any license or permit, the former licensee or permittee shall  
 3915 not engage in or attempt or profess to engage in any transaction  
 3916 or business for which a license or permit is required under this  
 3917 chapter or directly or indirectly own, control, or be employed  
 3918 in any manner by any firm, business, or corporation for which a  
 3919 license or permit under this chapter is required. If, during the  
 3920 period between the beginning of proceedings and the entry of an

3865 11. Methylene bromide;  
 3866 12. Bromodifluoromethane;  
 3867 13. Any other toxic or poisonous vaporizing liquid fire  
 3868 extinguishers using extinguishing agents determined by the State  
 3869 Fire Marshal to be unacceptably harmful; and  
 3870 14. Inverting water fire extinguishers.  
 3871 (b) It is unlawful to offer for sale, sell, or give in  
 3872 this state any of the types of fire extinguishers listed in  
 3873 paragraph (a) .  
 3874 (2) It is unlawful for any person, directly or through an  
 3875 agent, to sell, offer for sale, or give in this state any make,  
 3876 type, or model of fire extinguisher, either new or used, unless  
 3877 such make, type, or model of extinguisher has first been tested  
 3878 and is currently approved or listed by Underwriters  
 3879 Laboratories, Inc., Factory Mutual Laboratories, Inc., or  
 3880 another testing laboratory recognized by the State Fire Marshal  
 3881 as nationally recognized in accordance with procedures adopted  
 3882 by rule, taking into account the laboratory's facilities,  
 3883 procedures, use of nationally recognized standards, and any  
 3884 other criteria reasonably calculated to reach an informed  
 3885 determination, and unless such extinguisher carries an  
 3886 Underwriters Laboratories, Inc., or manufacturer's serial  
 3887 number. Such serial number shall be permanently stamped on the  
 3888 manufacturer's identification and instruction plate.  
 3889 (3) A person who violates any of the provisions of this  
 3890 section commits ~~is guilty of~~ a misdemeanor of the second degree,  
 3891 punishable as provided in s. 775.082 or s. 775.083.  
 3892 Section 41. Section 633.162, Florida Statutes, is

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3949 suspension of a license or permit by the State Fire Marshal if  
 3950 she or he determines that the licensee or permittee has:  
 3951 (a) Rendered inoperative a fire extinguisher or  
 3952 preengineered system required by statute or by rule, except  
 3953 during such time as the extinguisher or preengineered system is  
 3954 being inspected, serviced, repaired, hydrotested, or recharged,  
 3955 or except pursuant to court order.  
 3956 (b) Falsified any record required to be maintained by this  
 3957 chapter or rules adopted pursuant hereto.  
 3958 (c) Improperly serviced, recharged, repaired, hydrotested,  
 3959 tested, or inspected a fire extinguisher or preengineered  
 3960 system.  
 3961 (d) While holding a permit or license, allowed another  
 3962 person to use the permit number or license number, or used a  
 3963 license number or permit number other than her or his valid  
 3964 license number or permit number.  
 3965 (e) Failed to provide proof of insurance to the State Fire  
 3966 Marshal or failed to maintain in force the insurance coverage  
 3967 required by s. 633.304 ~~633.064~~.  
 3968 (f) Failed to obtain, retain, or maintain one or more of  
 3969 the qualifications for a license or permit as specified in this  
 3970 chapter.  
 3971 (g) Made a material misstatement ~~or~~ misrepresentation or  
 3972 committed a fraud in obtaining or attempting to obtain a license  
 3973 or permit.  
 3974 (h) Failed to notify the State Fire Marshal, in writing,  
 3975 within 30 days after a change of residence, principal business  
 3976 address, or name.

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3921 order of suspension or revocation by the State Fire Marshal, a  
 3922 new license or permit has been issued by the division to the  
 3923 person so charged, the order of suspension or revocation shall  
 3924 operate to suspend or revoke such new license or permit held by  
 3925 such person.  
 3926 (2) The department shall not, so long as the revocation or  
 3927 suspension remains in effect, grant any new license or permit  
 3928 for the establishment of any new firm, business, or corporation  
 3929 of any person or qualifier that has or will have the same or  
 3930 similar management, ownership, control, employees, permittees,  
 3931 or licensees, or will use a same or similar name as a previously  
 3932 revoked or suspended firm, business, corporation, person, or  
 3933 qualifier.  
 3934 (3) The State Fire Marshal may deny, nonrenew, suspend, or  
 3935 revoke the license or permit of:  
 3936 (a) Any person, firm, or corporation the license of which  
 3937 under this chapter has been suspended or revoked;  
 3938 (b) Any firm or corporation if an officer, qualifier,  
 3939 director, stockholder, owner, or person interested directly or  
 3940 indirectly in the firm or corporation has had his or her license  
 3941 or permit under this chapter suspended or revoked; or  
 3942 (c) Any person who is or has been an officer, qualifier,  
 3943 director, stockholder, or owner of a firm or corporation, or who  
 3944 was interested directly or indirectly in a firm or corporation,  
 3945 the license or permit of which has been suspended or revoked  
 3946 under this chapter.  
 3947 (4) In addition to the grounds set forth in subsection  
 3948 (1), it is cause for denial, nonrenewal, revocation, or

4005 repair, and inspect fire protection systems and their  
 4006 appurtenances and shall test the applicant's fitness in business  
 4007 and financial management. The test shall be based on applicable  
 4008 standards of the National Fire Protection Association and on  
 4009 relevant Florida and federal laws pertaining to the construction  
 4010 industry, safety standards, administrative procedures, and  
 4011 pertinent technical data.  
 4012 (b) A passing grade on the examination is 70 percent, and  
 4013 such examinations may be developed by an independent  
 4014 professional testing agency. The tests shall be prepared,  
 4015 administered, and scored in compliance with generally accepted  
 4016 professional testing standards.

4017 (c) The division shall solicit suggestions from affected  
 4018 persons regarding the content of examinations.  
 4019 (d) A reexamination may not be scheduled sooner than 30  
 4020 days after any administration of an examination to an applicant.  
 4021 (e) An applicant may not be examined more than four times  
 4022 during 1 year for certification as a contractor pursuant to this  
 4023 section unless the person is or has been certified and is taking  
 4024 the examination to change classifications. If an applicant does  
 4025 not pass one or more parts of the examination, she or he may  
 4026 take any part of the examination three more times during the 1-  
 4027 year period beginning upon the date she or he originally filed  
 4028 an application to take the examination. If the applicant does  
 4029 not pass the examination within that 1-year period, she or he  
 4030 must file a new application and pay the application and  
 4031 examination fees in order to take the examination or a part of  
 4032 the examination again. However, the applicant may not file a new

3977 (5) In addition, the department shall not issue a new  
 3978 license or permit if it finds that the circumstance or  
 3979 circumstances for which the license or permit was previously  
 3980 revoked or suspended still exist or are likely to recur.  
 3981 Section 42. Section 633.521, Florida Statutes, is  
 3982 transferred and renumbered as section 633.318, Florida Statutes,  
 3983 and subsection (1), paragraph (a) of subsection (2), paragraphs  
 3984 (c) and (g) of subsection (3), and subsections (4), (8), and  
 3985 (11) of that section are amended, to read:

3986 633.318 ~~633.521~~ Certificate application and issuance;  
 3987 permit issuance; examination and investigation of applicant.—  
 3988 (1) To obtain a fire protection system contractor's  
 3989 certificate, an applicant shall submit to the division ~~state~~  
 3990 ~~fire marshal~~ an application in writing, on a form provided by  
 3991 the division ~~state fire marshal~~ containing the information  
 3992 prescribed, which shall be accompanied by the fee fixed herein,  
 3993 containing a statement that the applicant desires the issuance  
 3994 of a certificate and stating the class of certificate requested.

3995 (2) (a) Examinations shall be administered by the division  
 3996 ~~state fire marshal~~ and held at times and places within the state  
 3997 as the division ~~state fire marshal~~ determines, but there shall  
 3998 be at least two examinations a year. Each applicant shall take  
 3999 and pass an objective, written examination of her or his fitness  
 4000 for a certificate in the class for which the application is  
 4001 requested. There shall be a type of examination for each class  
 4002 of certificate for contractors as of the classes of certificates  
 4003 defined in s. 633.102(3) ~~633-021(5)~~. The examination shall test  
 4004 the applicant's ability to lay out, fabricate, install, alter,

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4033 application sooner than 6 months after the date of her or his  
 4034 last examination. An applicant who passes the examination but  
 4035 does not meet the remaining qualifications as provided in  
 4036 applicable statutes and rules within 1 year after the  
 4037 application date must file a new application, pay the  
 4038 application and examination fee, successfully complete a  
 4039 prescribed training course approved by the State Fire College or  
 4040 an equivalent course approved by the State Fire Marshal, and  
 4041 retake and pass the written examination.  
 4042 (3) (a) As a prerequisite to taking the examination for  
 4043 certification as a Contractor I, the applicant must be at least  
 4044 18 years of age, be of good moral character, and possess 4  
 4045 years' proven experience in the employment of a fire protection  
 4046 system Contractor I or a combination of equivalent education and  
 4047 experience in both water-based and chemical fire suppression  
 4048 systems.  
 4049 (b) As a prerequisite to taking the examination for  
 4050 certification as a Contractor II, the applicant must be at least  
 4051 18 years of age, be of good moral character, and have 4 years of  
 4052 verifiable employment experience with a fire protection system  
 4053 as a Contractor I or Contractor II, or a combination of  
 4054 equivalent education and experience in water-based fire  
 4055 suppression systems.  
 4056 (c) Required education and experience for certification as  
 4057 a Contractor I, Contractor II, Contractor III, or Contractor IV  
 4058 includes training and experience in both installation and system  
 4059 layout as defined in s. 633.102 ~~633.021~~.  
 4060 (d) As a prerequisite to taking the examination for

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4061 certification as a Contractor III, the applicant must be at  
 4062 least 18 years of age, be of good moral character, and have 4  
 4063 years of verifiable employment experience with a fire protection  
 4064 system as a Contractor I or Contractor II, or a combination of  
 4065 equivalent education and experience in chemical fire suppression  
 4066 systems.  
 4067 (e) As a prerequisite to taking the examination for  
 4068 certification as a Contractor IV, the applicant must be at least  
 4069 18 years old, be of good moral character, be licensed as a  
 4070 certified plumbing contractor under chapter 489, and  
 4071 successfully complete a training program acceptable to the State  
 4072 Fire Marshal of not less than 40 contact hours regarding the  
 4073 applicable installation standard used by the Contractor IV as  
 4074 described in NFPA 13D. The State Fire Marshal may adopt rules to  
 4075 administer this subsection.  
 4076 (f) As a prerequisite to taking the examination for  
 4077 certification as a Contractor V, the applicant must be at least  
 4078 18 years old, be of good moral character, and have been licensed  
 4079 as a certified underground utility and excavation contractor or  
 4080 certified plumbing contractor pursuant to chapter 489, have  
 4081 verification by an individual who is licensed as a certified  
 4082 utility contractor or certified plumbing contractor pursuant to  
 4083 chapter 489 that the applicant has 4 years' proven experience in  
 4084 the employ of a certified underground utility and excavation  
 4085 contractor or certified plumbing contractor, or have a  
 4086 combination of education and experience equivalent to 4 years'  
 4087 proven experience in the employ of a certified underground  
 4088 utility and excavation contractor or certified plumbing

4089 contractor.

4090 (g) Within 30 days after the date of the examination, the

4091 division ~~State Fire Marshal~~ shall inform the applicant in

4092 writing whether she or he has qualified or not and, if the

4093 applicant has qualified, that she or he is eligible ~~ready~~ to be

4094 issued ~~sent~~ a certificate of competency, subject to compliance

4095 with the requirements of subsection (4).

4096 (4) As a prerequisite to issuance of a certificate, the

4097 division ~~State Fire Marshal~~ shall require the applicant to

4098 submit satisfactory evidence that she or he has obtained

4099 insurance providing coverage for comprehensive general liability

4100 for bodily injury and property damages, products liability,

4101 completed operations, and contractual liability. The division

4102 ~~State Fire Marshal~~ may adopt rules providing for the amount of

4103 insurance, but such amount shall not be less than \$500,000 for a

4104 Contractor I, Contractor II, Contractor III, or Contractor V and

4105 shall not be less than \$250,000 for a Contractor IV. An insurer

4106 that ~~which~~ provides such coverage shall notify ~~within 30 days~~

4107 the division ~~State Fire Marshal~~ of any material change in

4108 coverage or any termination, cancellation, or nonrenewal of such

4109 coverage within 30 days of the change in coverage or

4110 termination, cancellation, or nonrenewal of such coverage. An

4111 insurer that ~~which~~ fails to so notify the division ~~State Fire~~

4112 ~~Marshal's office~~ shall be subject to the penalties provided

4113 under s. 624.4211.

4114 (5) Upon satisfaction of the requirements of subsections

4115 (1), (2), (3), and (4), the certificate shall be issued

4116 forthwith. However, no certificate shall remain in effect if,

4117 after issuance, the certificateholder fails to maintain the

4118 insurance coverage required by this section.

4119 (6) If an applicant for an original certificate, after

4120 having been notified to do so, does not appear for examination

4121 or does not pass the examination within 1 year from the date of

4122 filing her or his application, the fee paid by the applicant

4123 shall be forfeited. New applications for a certificate shall be

4124 accompanied by another application fee fixed by this chapter.

4125 (7) The State Fire Marshal may, at any time subsequent to

4126 the issuance of the certificate or its renewal, require, upon

4127 demand and in no event more than 30 days after notice of the

4128 demand, the certificateholder to provide proof of insurance

4129 coverage on a form provided by the State Fire Marshal containing

4130 confirmation of insurance coverage as required by this chapter.

4131 Failure to provide proof of insurance coverage as required, for

4132 any length of time, shall result in the immediate suspension of

4133 the certificate until proof of insurance is provided to the

4134 State Fire Marshal.

4135 (8) An individual employed by a Contractor I or Contractor

4136 II certificateholder, as established in this section, who will

4137 be inspecting water-based fire protection systems as required

4138 under s. 633.312 ~~633.002~~, must be issued a permit by the

4139 division ~~State Fire Marshal~~ to conduct such work. The permit is

4140 valid solely for use by the holder thereof in his or her

4141 employment by the certificateholder named in the permit. A

4142 permittee must have a valid and subsisting permit upon his or

4143 her person at all times while engaging in inspecting fire

4144 protection systems, and a permit holder must be able to produce

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4145 such a permit upon demand. In addition, a permittee shall, at  
 4146 all times while performing inspections, carry an identification  
 4147 card containing his or her photograph and other identifying  
 4148 information as prescribed by the State Fire Marshal, and the  
 4149 permittee must produce the identification card and information  
 4150 upon demand. The permit and the identification may be one and  
 4151 the same. A permittee is limited as to the specific type of work  
 4152 performed, depending upon the class of certificate held by the  
 4153 certificateholder under whom the permittee is working. The  
 4154 permit class shall be known as a Water-Based Fire Protection  
 4155 Inspector whose permit allows the holder to inspect water  
 4156 sprinkler systems, water spray systems, foam-water sprinkler  
 4157 systems, foam-water spray systems, standpipes, combination  
 4158 standpipes and sprinkler systems, all piping that is an integral  
 4159 part of the system beginning at the point where the piping is  
 4160 used exclusively for fire protection, sprinkler tank heaters,  
 4161 air lines, thermal systems used in connection with sprinklers,  
 4162 and tanks and pumps connected thereto, excluding preengineered  
 4163 systems.  
 4164 (9) It is the intent of the Legislature that the  
 4165 inspections and testing of automatic fire sprinkler systems for  
 4166 detached one-family dwellings, detached two-family dwellings,  
 4167 and mobile homes be accomplished by the owner, who is  
 4168 responsible for requesting service from a contractor when  
 4169 necessary. It is further intended that the NFPA-25 inspection of  
 4170 exposed underground piping and any attached appurtenances  
 4171 supplying a fire protection system be conducted by a Contractor  
 4172 I or Contractor II.

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4173 (10) The State Fire Marshal shall require the National  
 4174 Institute of Certification in Engineering Technologies (NICET),  
 4175 Sub-field of Inspection and Testing of Fire Protection Systems  
 4176 Level II or equivalent training and education as determined by  
 4177 the division as proof that the permitholders are knowledgeable  
 4178 about nationally accepted standards for the inspection of fire  
 4179 protection systems.  
 4180 (11) It is intended that a certificateholder, or a  
 4181 permitholder who is employed by a certificateholder, conduct  
 4182 inspections required by this chapter. It is understood that  
 4183 after July 1, 2008, employee turnover may result in a depletion  
 4184 of personnel who are certified under the NICET Sub-field of  
 4185 Inspection and Testing of Fire Protection Systems Level II or  
 4186 equivalent training and education as required by the division ~~of~~  
 4187 ~~State Fire Marshal~~. A certificateholder may obtain a provisional  
 4188 permit with an endorsement for inspection, testing, and  
 4189 maintenance of water-based fire extinguishing systems for an  
 4190 employee if the employee has initiated procedures for obtaining  
 4191 Level II certification from the National Institute for  
 4192 Certification in Engineering Technologies Sub-field of  
 4193 Inspection and Testing of Fire Protection Systems and achieved  
 4194 Level I certification or an equivalent level as determined by  
 4195 the State Fire Marshal through verification of experience,  
 4196 training, and examination. The division ~~State Fire Marshal~~ may  
 4197 establish rules to administer this subsection. After 2 years of  
 4198 provisional certification, the employee must have achieved NICET  
 4199 Level II certification or obtain equivalent training and  
 4200 education as determined by the division, or cease performing



4229 shall require a fire protection system contractor's shop  
 4230 drawings to be sealed by a professional engineer.  
 4231 (3) Any official authorized to issue building or other  
 4232 related permits shall ascertain that the applicant contractor is  
 4233 duly certified before issuing the permit. The evidence shall  
 4234 consist only of the exhibition to him or her of ~~current~~ evidence  
 4235 of current certification.  
 4236 (4) The State Fire Marshal shall inform each county and  
 4237 municipal building department, prior to November 1 of each year,  
 4238 of the names of the certified contractors and the type of  
 4239 certificate held.  
 4240 Section 44. Section 633.527, Florida Statutes, is  
 4241 transferred and renumbered as section 633.324, Florida Statutes.  
 4242 Section 45. Section 633.531, Florida Statutes, is  
 4243 transferred and renumbered as section 633.326, Florida Statutes.  
 4244 Section 46. Section 633.534, Florida Statutes, is  
 4245 transferred and renumbered as section 633.328, Florida Statutes,  
 4246 and subsection (4) of that section is amended, to read:  
 4247 633.328 ~~633.534~~ Issuance of certificate to individuals and  
 4248 business organizations.—  
 4249 (1) When an individual proposes to do business in her or  
 4250 his own name, certifications, when granted, shall be issued only  
 4251 to that individual.  
 4252 (2) If the applicant proposing to engage in contracting is  
 4253 a business organization, such as a partnership, corporation,  
 4254 business trust, or other legal entity, the application shall  
 4255 state the name of the partnership and its partners, the name of  
 4256 the corporation and its officers and directors, the name of the

4201 inspections requiring Level II certification. The provisional  
 4202 permit is valid only for the 2 calendar years after the date of  
 4203 issuance, may not be extended, and is not renewable. After the  
 4204 initial 2-year provisional permit expires, the certificateholder  
 4205 must wait 2 additional years before a new provisional permit may  
 4206 be issued. The intent is to prohibit the certificateholder from  
 4207 using employees who never reach NICET Level II status, or  
 4208 equivalent training and education as determined by the division,  
 4209 by continuously obtaining provisional permits.  
 4210 Section 43. Section 633.551, Florida Statutes, is  
 4211 transferred and renumbered as section 633.322, Florida Statutes,  
 4212 and subsections (1), (2), and (3) of that section are amended,  
 4213 to read:  
 4214 633.322 ~~633.551~~ County and municipal powers; effect of ch.  
 4215 75-240.—  
 4216 (1) Nothing in this chapter ~~act~~ limits the power of a  
 4217 municipality, ~~or~~ county, or special district to regulate the  
 4218 quality and character of work performed by contractors through a  
 4219 system of permits, fees, and inspections which are designed to  
 4220 secure compliance with, and aid in the implementation of, state  
 4221 and local building laws or to enforce other local laws for the  
 4222 protection of the public health and safety.  
 4223 (2) Nothing in this chapter ~~act~~ limits the power of a  
 4224 municipality, ~~or~~ county, or special district to adopt any system  
 4225 of permits requiring submission to and approval by the  
 4226 municipality, ~~or~~ county, or special district of plans and  
 4227 specifications for work to be performed by contractors before  
 4228 commencement of the work, except that no municipality or county

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4257 business trust and its trustees, or the name of such other legal  
 4258 entity and its members and shall furnish evidence of statutory  
 4259 compliance if a fictitious name is used. Such application shall  
 4260 also show that the person applying for the examination is an  
 4261 employee of and is legally qualified to act for the business  
 4262 organization in all matters connected with its contracting  
 4263 business and that she or he has authority to supervise and will  
 4264 supervise any construction undertaken by such business  
 4265 organization. The certification, when issued upon application of  
 4266 a business organization, shall be in the name of such business  
 4267 organization, and the name of the qualifying individual or  
 4268 individuals shall be noted thereon.

4269 (3) (a) At least one member or supervising employee of the  
 4270 business organization as designated to the State Fire Marshal by  
 4271 such organization shall be certified under this chapter in order  
 4272 for the business organization to hold a current certificate as a  
 4273 contractor. If any individual so certified on behalf of such  
 4274 business organization ceases to be affiliated with such business  
 4275 organization, she or he shall inform the State Fire Marshal as  
 4276 provided in paragraph (b). A certified individual who is the  
 4277 sole contractor on behalf of a business organization may not  
 4278 affiliate simultaneously with another business organization. In  
 4279 addition, if such individual was the only certified individual  
 4280 affiliated with the business organization, the business  
 4281 organization shall immediately notify the State Fire Marshal of  
 4282 the individual's termination and shall have a grace period of 60  
 4283 days from the date of termination in which to certify another  
 4284 person under the provisions of this chapter, failing which the

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4285 certification of the business organization shall expire without  
 4286 further operation of law.

4287 (b) The certified individual shall also inform the State  
 4288 Fire Marshal in writing when she or he proposes to engage in  
 4289 contracting in her or his own name or to affiliate with another  
 4290 business organization, and she or he or such new business  
 4291 organization shall supply the same information to the State Fire  
 4292 Marshal as is required of applicants under this chapter. Each  
 4293 certified individual must pay to the department an amount equal  
 4294 to the original fee for certification of a new business entity.

4295 (c) In the event of the death of a sole proprietor or in  
 4296 the event that a business organization has only one  
 4297 certificateholder and that person dies, the individual's estate  
 4298 or personal representative or the business organization, as the  
 4299 case may be, shall immediately notify the State Fire Marshal of  
 4300 the individual's death and shall have a grace period of 60 days  
 4301 from the date of death in which to certify another person under  
 4302 the provisions of this chapter, failing which the certification  
 4303 of the business organization shall expire without further  
 4304 operation of law.

4305 (4) When the certified business organization makes  
 4306 application for an occupational license in any municipality or  
 4307 county of this state, the application shall be made with the tax  
 4308 collector in the name of the business organization, and the  
 4309 license, when issued, shall be issued to the business  
 4310 organization upon payment of the appropriate licensing fee and  
 4311 exhibition to the tax collector of a valid certificate issued by  
 4312 the division ~~State Fire Marshal~~.



4313 Section 47. Section 633.537, Florida Statutes, is  
 4314 transferred and renumbered as section 633.332, Florida Statutes,  
 4315 and subsections (1) and (2) and paragraph (a) of subsection (3)  
 4316 are amended, to read:  
 4317 633.332 ~~633.537~~ Certificate; expiration; renewal; inactive  
 4318 certificate; continuing education.—

4319 (1) Certificates shall expire every 2 years at midnight on  
 4320 June 30. ~~Effective with the June 30, 1998, renewal.~~ All  
 4321 certificates must be renewed every 2 years. The failure to renew  
 4322 a certificate ~~during~~ June 30, shall cause the certificate  
 4323 to become inoperative, and it is unlawful thereafter for any  
 4324 person to engage, offer to engage, or hold herself or himself  
 4325 out as engaging in contracting under the certificate unless the  
 4326 certificate is restored or reissued. A certificate which is  
 4327 inoperative because of failure to renew shall be restored on  
 4328 payment of the proper renewal fee if the application for  
 4329 restoration is made within 90 days after June 30. If the  
 4330 application for restoration is not made within the 90-day  
 4331 period, the fee for restoration shall be equal to the original  
 4332 application fee, and, in addition, the State Fire Marshal shall  
 4333 require examination or reexamination of the applicant.

4334 (2) A person who holds a valid certificate may maintain  
 4335 such certificate in an inactive status during which time she or  
 4336 he may not engage in contracting. An inactive status certificate  
 4337 shall be void after a 2-year period. ~~the biennial renewal fee~~  
 4338 ~~fee an inactive status certificate shall be \$75.~~ An inactive  
 4339 status certificate may be reactivated upon application to the  
 4340 State Fire Marshal and payment of the initial application fee.

4341 (3) (a) A certificate for the Contractor I, II, and III  
 4342 classifications as defined in this chapter shall not be renewed  
 4343 unless the certificateholder produces documentation of at least  
 4344 32 contact hours of continuing education in the fire protection  
 4345 discipline during the biennial licensure period. Holders of  
 4346 Contractor IV certificates are required to obtain 14 contact  
 4347 hours of continuing education encompassing the appropriate  
 4348 National Fire Protection Association fire sprinkler documents  
 4349 prior to renewal.  Holders of Contractor V certificates are  
 4350 required to obtain 14 contact hours of continuing education  
 4351 prior to renewal, at least 1 hour of which is in the fire  
 4352 protection discipline. Any continuing education hours approved  
 4353 pursuant to chapter 489 by the Construction Industry Licensing  
 4354 Board for underground utility and excavation contractors shall  
 4355 be considered as also approved to comply with Contractor V  
 4356 continuing education requirements. A Contractor V  
 4357 certificateholder shall provide to the State Fire Marshal  
 4358 evidence of approval of such coursework by the Construction  
 4359 Industry Licensing Board.

4397 nationally recognized, taking into account the laboratory's  
 4398 facilities, procedures, use of nationally recognized standards,  
 4399 and any other criteria reasonably calculated to reach an  
 4400 informed determination.  
 4401 (c) Equipment shall be installed in accordance with the  
 4402 applicable standards of the National Fire Protection Association  
 4403 and the manufacturer's specifications.  
 4404 (d) Each piece of equipment supplied shall be guaranteed  
 4405 for a period of 1 year against defects in material or  
 4406 operations.  
 4407 (e) The contractor shall furnish the user with operating  
 4408 instructions for all equipment installed, together with a  
 4409 diagram of the final installation.  
 4410 (2) Equipment shall be inspected, serviced, and maintained  
 4411 in accordance with the manufacturer's maintenance procedures and  
 4412 with applicable National Fire Protection Association standards.  
 4413 The inspection of fire protection systems shall be conducted by  
 4414 a certificateholder or holder of a permit issued by the division  
 4415 ~~State Fire Marshal~~. The permit holder may perform inspections on  
 4416 fire protection systems only while employed by the  
 4417 certificateholder. This section does not prohibit the authority  
 4418 having jurisdiction or insurance company representatives from  
 4419 reviewing the system in accordance with acceptable oversight  
 4420 standards.  
 4421 (3) For contracts written after June 30, 2005, the  
 4422 contractor who installs the underground piping from the point of  
 4423 service is responsible for completing the installation to the  
 4424 aboveground connection flange, which by definition in this

4369 obtained within the licensure period.  
 4370 (4) The renewal period for the permit class is the same as  
 4371 that for the employing certificateholder. The continuing  
 4372 education requirements for permit holders are what is required to  
 4373 maintain NICET Sub-field of Inspection and Testing of Fire  
 4374 Protection Systems Level II, equivalent training and education  
 4375 as determined by the division, or higher certification plus 8  
 4376 contact hours of continuing education approved by the State Fire  
 4377 Marshal during each biennial renewal period thereafter. It is  
 4378 the responsibility of the permit holder to maintain NICET II  
 4379 certification or equivalent training and education as determined  
 4380 by the division as a condition of permit renewal after July 1,  
 4381 2008.  
 4382 Section 48. Section 633.539, Florida Statutes, is  
 4383 transferred and renumbered as section 633.334, Florida Statutes,  
 4384 and paragraph (a) of subsection (1), subsection (2), and  
 4385 subsection (4) of that section are amended, to read:  
 4386 633.334 ~~633.539~~ Requirements for installation, inspection,  
 4387 and maintenance of fire protection systems.-  
 4388 (1) The requirements for installation of fire protection  
 4389 systems are as follows:  
 4390 (a) Contractors of fire protection systems shall be  
 4391 certified under s. 633.318 ~~633.521~~.  
 4392 (b) Equipment shall be listed by a nationally recognized  
 4393 testing laboratory, such as Underwriters Laboratories, Inc., or  
 4394 Factory Mutual Laboratories, Inc., or shall comply with  
 4395 nationally accepted standards. The State Fire Marshal shall  
 4396 adopt by rule procedures for determining whether a laboratory is

4453 (1) It is unlawful for any organization or individual to  
 4454 engage in the business of layout, fabrication, installation,  
 4455 inspection, alteration, repair, or service of a fire protection  
 4456 system, other than a preengineered system, act in the capacity  
 4457 of a fire protection contractor, or advertise itself as being a  
 4458 fire protection contractor without having been duly certified  
 4459 and holding a valid and existing certificate, except as  
 4460 hereinafter provided. The holder of a certificate used to  
 4461 qualify an organization must be a full-time employee of the  
 4462 qualified organization or business. A certificateholder who is  
 4463 employed by more than one fire protection contractor during the  
 4464 same period of time is deemed not to be a full-time employee of  
 4465 either contractor. The State Fire Marshal shall revoke, for a  
 4466 period of time determined by the State Fire Marshal, the  
 4467 certificate of a certificateholder who allows the use of the  
 4468 certificate to qualify a company of which the certificateholder  
 4469 is not a full-time employee. A contractor who maintains more  
 4470 than one place of business must employ a certificateholder at  
 4471 each location. Nothing in this subsection prohibits an employee  
 4472 acting on behalf of governmental entities from inspecting and  
 4473 enforcing firesafety codes, provided such employee is certified  
 4474 under s. 633.216 ~~633.084~~.  
 4475 (2) A fire protection contractor certified under this  
 4476 chapter may not:  
 4477 (a) Enter into a written or oral agreement to authorize,  
 4478 or otherwise knowingly allow, a contractor who is not certified  
 4479 under this chapter to engage in the business of, or act in the  
 4480 capacity of, a fire protection contractor.

4425 chapter is no more than 1 foot above the finished floor, before  
 4426 completing the Contractor's Material and Test Certificate for  
 4427 Underground Piping document. Aboveground contractors may not  
 4428 complete the Contractor's Material and Test Certificate for  
 4429 Underground Piping document for underground piping or portions  
 4430 thereof which have been installed by others.  
 4431 (4) The Contractor V may install the cross-connection  
 4432 backflow prevention device as defined in this chapter on new  
 4433 installations following the engineer of record's direction on  
 4434 type and size of the device. The retrofitting of a backflow  
 4435 device on an existing fire protection system will cause a  
 4436 reduction in available water pressure and probable system  
 4437 malfunction. The development of aboveground fire protection  
 4438 system hydraulic calculations is a task of the Contractor I and  
 4439 II, as defined in this chapter. Accordingly, a Contractor V is  
 4440 expressly prohibited from retrofitting cross-connection backflow  
 4441 prevention devices on an existing fire protection system, and  
 4442 only a Contractor I or Contractor II who is tasked to  
 4443 recalculate the system and take corrective actions to ensure  
 4444 that the system will function with the available water supply  
 4445 may retroactively install these backflow devices on existing  
 4446 fire protection systems.  
 4447 Section 49. Section 633.541, Florida Statutes, is  
 4448 transferred and renumbered as section 633.336, Florida Statutes,  
 4449 and subsections (1), (3), and (4) of that section are amended,  
 4450 to read:  
 4451 633.336 ~~633.541~~ Contracting without certificate  
 4452 prohibited; violations; penalty. —

4481 (b) Apply for or obtain a construction permit for fire  
 4482 protection work unless the fire protection contractor or the  
 4483 business organization qualified by the fire protection  
 4484 contractor has contracted to conduct the work specified in the  
 4485 application for the permit.  
 4486 (3) Any person who violates any provision of this act or  
 4487 commits any of the acts constituting cause for disciplinary  
 4488 action as herein set forth commits a misdemeanor of  
 4489 the second degree, punishable as provided in s. 775.082 or s.  
 4490 775.083.  
 4491 (4) In addition to the penalties provided in subsection  
 4492 (3), a fire protection contractor certified under this chapter  
 4493 who violates any provision of this section or who commits any  
 4494 act constituting cause for disciplinary action is subject to  
 4495 suspension or revocation of the certificate and administrative  
 4496 fines pursuant to s. 633.338 ~~633-547~~.  
 4497 Section 50. Section 633.547, Florida Statutes, is  
 4498 transferred and renumbered as section 633.338, Florida Statutes,  
 4499 and paragraphs (d) and (h) of subsection (2) and subsections (3)  
 4500 and (4) of that section are amended, to read:  
 4501 633.338 ~~633-547~~ Disciplinary action; fire protection  
 4502 system contractors; grounds for denial, nonrenewal, suspension,  
 4503 or revocation of certificate or permit.—  
 4504 (1) The State Fire Marshal shall investigate the alleged  
 4505 illegal action of any fire protection system contractor or  
 4506 permittee certified under this chapter and hold hearings  
 4507 pursuant to chapter 120.  
 4508 (2) The following acts constitute cause for disciplinary

4509 action:  
 4510 (a) Violation of any provision of this chapter or of any  
 4511 rule adopted pursuant thereto.  
 4512 (b) Violation of the applicable building codes or laws of  
 4513 this state or any municipality or county thereof.  
 4514 (c) Diversion of funds or property received for  
 4515 prosecution or completion of a specified construction project or  
 4516 operation when, as a result of the diversion, the contractor is,  
 4517 or will be, unable to fulfill the terms of her or his obligation  
 4518 or contract.  
 4519 (d) Disciplinary action by any municipality, ~~or~~ county, or  
 4520 special district, which action shall be reviewed by the State  
 4521 Fire Marshal before taking any disciplinary action.  
 4522 (e) Failure to supervise the installation of the fire  
 4523 protection system covered by the building permit signed by the  
 4524 contractor.  
 4525 (f) Rendering a fire protection system, standpipe system,  
 4526 or underground water supply main connecting to the system  
 4527 inoperative except when the fire protection system, standpipe  
 4528 system, or underground water supply main is being inspected,  
 4529 serviced, tested, or repaired, or except pursuant to court  
 4530 order.  
 4531 (g) Improperly servicing, repairing, testing, or  
 4532 inspecting a fire protection, standpipe system, or underground  
 4533 water supply main connecting to the system.  
 4534 (h) Failing to provide proof of insurance to the State  
 4535 Fire Marshal or failing to maintain in force the insurance  
 4536 coverage required by s. 633.318 ~~633-521~~.

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4537 (i) Failing to obtain, retain, or maintain one or more of  
 4538 the qualifications for a certificate as specified in this  
 4539 chapter.  
 4540 (j) Making a material misstatement, misrepresentation, or  
 4541 committing a fraud in obtaining or attempting to obtain a  
 4542 certificate.  
 4543 (k) Failing to notify the State Fire Marshal, in writing,  
 4544 within 30 days after a change of residence address, principal  
 4545 business address, or name.  
 4546 (3) The State Fire Marshal ~~is authorized to take the~~  
 4547 ~~following disciplinary action:~~  
 4548 ~~(a) She or he may suspend the contractor's certificate~~  
 4549 ~~certificateholder for a period not to exceed 2 years. During~~  
 4550 ~~that period, the contractor must cease all operations as a~~  
 4551 ~~contractor, but the State Fire Marshal may authorize the~~  
 4552 ~~certificateholder from all operations as a contractor during the~~  
 4553 ~~period fixed by the State Fire Marshal, but she or he may permit~~  
 4554 ~~the certificateholder to complete any contracts then incomplete.~~  
 4555 ~~(b) She or he may revoke a certificate for a period not to~~  
 4556 ~~exceed 5 years.~~  
 4557 (4) During the suspension or revocation of the  
 4558 certificate, the former certificateholder shall not engage in or  
 4559 attempt ~~to profess~~ to engage in any transaction or business for  
 4560 which a certificate is required under this chapter or directly  
 4561 or indirectly own, control, or be employed in any manner by any  
 4562 firm or corporation for which a certificate under this chapter  
 4563 is required. The department shall not, so long as the revocation  
 4564 or suspension remains in effect, grant any new certificate for

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4565 the establishment of any new firm, business, or corporation of  
 4566 any person that has or will have the same or similar management,  
 4567 ownership, control, or employees or that will use a same or  
 4568 similar name as a previously revoked or suspended firm,  
 4569 business, or corporation.  
 4570 (5) The State Fire Marshal may deny, suspend, or revoke  
 4571 the certificate of:  
 4572 (a) Any person, firm, or corporation the certificate of  
 4573 which under this chapter has been suspended or revoked.  
 4574 (b) Any firm or corporation if an officer, director,  
 4575 stockholder, owner, or person interested directly or indirectly  
 4576 has had his or her certificate under this chapter suspended or  
 4577 revoked.  
 4578 (c) Any person who is or has been an officer, director,  
 4579 stockholder, or owner of a firm or corporation, or who was  
 4580 interested directly or indirectly in a corporation, the  
 4581 certificate of which has been suspended or revoked under this  
 4582 chapter.  
 4583 (6) The lapse or suspension of a certificate by operation  
 4584 of law or by order of the State Fire Marshal or a court or its  
 4585 voluntary surrender by a certificateholder does not deprive the  
 4586 State Fire Marshal of jurisdiction to investigate or act in  
 4587 disciplinary proceedings against the certificateholder.  
 4588 (7) The filing of a petition in bankruptcy, either  
 4589 voluntary or involuntary, or the making of a composition of  
 4590 creditors or the appointment of a receiver for the business of  
 4591 the certificateholder may be considered by the State Fire  
 4592 Marshal as just cause for suspension of a certificate.

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4621 certified unlimited electrical contractor to bring the alarm  
 4622 system into compliance with applicable standards set forth in  
 4623 this chapter and the rules of the State Fire Marshal.  
 4624 (2) Any order issued by the State Fire Marshal shall  
 4625 comply with the provisions of chapter 120 and allow a reasonable  
 4626 time for corrective action to be completed.  
 4627 (3) The Department of Business and Professional Regulation  
 4628 and the Electrical Contractors' Licensing Board may participate,  
 4629 at their discretion, but not as a party, in any proceedings  
 4630 relating to corrective action.  
 4631 (4) The State Fire Marshal shall adopt standards, by rule,  
 4632 for the installation, maintenance, alteration, repair,  
 4633 monitoring, inspection, replacement, or servicing of fire alarms  
 4634 and fire alarm systems.  
 4635 Section 54. Section 633.701, Florida Statutes, is  
 4636 transferred and renumbered as section 633.348, Florida Statutes.  
 4637 Section 55. Section 633.702, Florida Statutes, is  
 4638 transferred and renumbered as section 633.3482, Florida  
 4639 Statutes, and subsection (2) and paragraph (c) of subsection (3)  
 4640 of that section are amended, to read:  
 4641 633.3482 ~~633.702~~ Prohibited acts regarding alarm system  
 4642 contractors or certified unlimited electrical contractors;  
 4643 penalties.—  
 4644 (1) It shall be unlawful for any person, directly or  
 4645 through an agent, to sell, offer for sale, or give any make,  
 4646 type, or model of fire alarm system, either new or used, unless  
 4647 such make, type, or model has been tested and is currently  
 4648 approved or listed by a nationally recognized testing

4593 Section 51. Section 633.549, Florida Statutes, is  
 4594 transferred and renumbered as section 633.342, Florida Statutes,  
 4595 and amended to read:  
 4596 633.342 ~~633.549~~ Violations subject to injunction.—Any  
 4597 person who operates as a contractor without a current  
 4598 certificate or who violates any part of this chapter or any  
 4599 rule, decision, order, direction, demand, or requirement of the  
 4600 State Fire Marshal in relation thereto, or any part or provision  
 4601 thereof, may be enjoined by the courts of the state from any  
 4602 such violation or such unauthorized or unlawful contracting at  
 4603 the ~~request~~ of the State Fire Marshal, the board, or  
 4604 any citizen or taxpayer of the state.  
 4605 Section 52. Section 633.554, Florida Statutes, is  
 4606 transferred and renumbered as section 633.344, Florida Statutes.  
 4607 Section 53. Section 633.70, Florida Statutes, is  
 4608 transferred and renumbered as section 633.346, Florida Statutes,  
 4609 and subsection (1) of that section is amended, to read:  
 4610 633.346 ~~633.70~~ Jurisdiction of State Fire Marshal over  
 4611 alarm system contractors and certified unlimited electrical  
 4612 contractors.—  
 4613 (1) When the State Fire Marshal, in the course of its  
 4614 activities pursuant to s. 633.104(2) ~~633.01(2)~~, determines that  
 4615 an alarm system contractor or a certified unlimited electrical  
 4616 contractor working with an alarm system has violated any  
 4617 provision of this chapter or the rules of the State Fire  
 4618 Marshal, the State Fire Marshal shall have jurisdiction,  
 4619 notwithstanding any other provision of this chapter, to order  
 4620 corrective action by the alarm system contractor or the



4677	defined in part II of chapter 489;
4678	(b) The person is the holder of a valid and current active
4679	license as a licensed fire alarm contractor, as defined in part
4680	II of chapter 489;
4681	(c) The person is authorized to act as a fire alarm system
4682	agent pursuant to s. 489.5185; or
4683	(d) The person is exempt pursuant to s. 489.503.
4684	Section 56. Part IV of chapter 633, Florida Statutes,
4685	consisting of sections 633.402, 633.404, 633.406, 633.408,
4686	633.412, 633.414, 633.416, 633.418, 633.422, 633.424, 633.426,
4687	633.428, 633.432, 633.434, 633.436, 633.438, 633.442, 633.444,
4688	and 633.446, is created and entitled "Fire Standards and
4689	Training."
4690	Section 57. Section 633.31, Florida Statutes, is
4691	transferred and renumbered as subsections (1), (2), (3), and (4)
4692	of section 633.402, Florida Statutes, and subsection (1) of that
4693	section is amended, section 633.32, Florida Statutes, is
4694	transferred and renumbered as subsections (5), (6), (7), and (8)
4695	of that section, and section 633.33, Florida Statutes, is
4696	transferred and renumbered as subsection (9) of that section and
4697	amended, to read:
4698	<u>633.402</u> <del>633.31</del> Firefighters Employment, Standards, and
4699	Training Council.—
4700	(1) There is created within the department a Firefighters
4701	Employment, Standards, and Training Council of 13 members.
4702	(a) The members shall be appointed as follows:
4703	<u>1.</u> Two <del>members shall be</del> fire chiefs appointed by the
4704	Florida Fire Chiefs Association.

4649	Laboratory.
4650	(2) Any person who violates this section <u>commits</u> <del>is guilty</del>
4651	<del>of</del> a misdemeanor of the second degree, punishable as provided in
4652	s. 775.082 or s. 775.083.
4653	(3) It is a misdemeanor of the first degree, punishable as
4654	provided in s. 775.082 or s. 775.083, for any fire alarm system
4655	contractor or certified unlimited electrical contractor to
4656	intentionally or willfully:
4657	(a) Render inoperative any fire alarm system which is
4658	required by the State Fire Marshal's rules, except when the
4659	system is being serviced, tested, repaired, inspected, or
4660	improved.
4661	(b) Improperly install, service, test, repair, improve, or
4662	inspect a fire alarm system.
4663	(c) Knowingly combine <del>combining</del> or <u>conspire</u> <del>conspiring</del>
4664	with any person by allowing one's certificate to be used by any
4665	uncertified person with intent to evade the provisions of this
4666	act. When a licensee allows his or her license to be used by one
4667	or more companies without having any active participation in the
4668	operation or management of said companies, such act constitutes
4669	prima facie evidence of any intent to evade the provisions of
4670	this <u>chapter</u> <del>act</del> .
4671	(4) It is a misdemeanor of the first degree, punishable as
4672	provided in s. 775.082 or s. 775.083, for any person to
4673	intentionally or willfully install, service, test, repair,
4674	improve, or inspect a fire alarm system unless:
4675	(a) The person is the holder of a valid and current active
4676	license as a certified unlimited electrical contractor, as

4705 2. ~~Two members shall be~~ firefighters, who are not  
 4706 officers, appointed by the Florida Professional Firefighters  
 4707 Association.7  
 4708 3. ~~Two members shall be~~ firefighter officers, who are not  
 4709 fire chiefs, appointed by the State Fire Marshal.7  
 4710 4. One individual ~~member~~ appointed by the Florida League  
 4711 of Cities.7  
 4712 5. One individual ~~member~~ appointed by the Florida  
 4713 Association of Counties.7  
 4714 6. One individual ~~member~~ appointed by the Florida  
 4715 Association of Special Districts.7  
 4716 7. One individual ~~member~~ appointed by the Florida Fire  
 4717 Marshals' and Inspectors' ~~Marshals' Association.~~7 ~~and~~  
 4718 8. One employee of the Florida Forest Service of the  
 4719 Department of Agriculture and Consumer Services appointed by the  
 4720 director of the Florida Forest Service.  
 4721 9. One individual ~~member~~ appointed by the State Fire  
 4722 Marshal.7 ~~and~~  
 4723 10. One ~~member shall be a~~ director or instructor of a  
 4724 state-certified firefighting training facility appointed by the  
 4725 State Fire Marshal.  
 4726 (b) To be eligible for appointment as a member under  
 4727 subparagraph 1., subparagraph 2., subparagraph 3., subparagraph  
 4728 8., or subparagraph 10. ~~fire chief member, firefighter officer~~  
 4729 ~~member, firefighter member, or a director or instructor of a~~  
 4730 ~~state-certified firefighting facility,~~ a person must ~~shall~~ have  
 4731 had at least 4 years' experience in the firefighting profession.  
 4732 The remaining member, who shall be appointed by the State Fire

4733 Marshal, shall not be a member or representative of the  
 4734 firefighting profession or of any local government. Members  
 4735 shall serve only as long as they continue to meet the criteria  
 4736 under which they were appointed, or unless a member has failed  
 4737 to appear at three consecutive and properly noticed meetings  
 4738 unless excused by the chair.  
 4739 (2) Members shall be appointed for 4-year terms and in no  
 4740 event shall a member serve more than two consecutive terms. Any  
 4741 vacancy shall be filled in the manner of the original  
 4742 appointment for the remaining time of the term.  
 4743 (3) The State Fire Marshal, in making her or his  
 4744 appointments, shall take into consideration representation by  
 4745 geography, population, and other relevant factors, in order that  
 4746 the membership on the council will be apportioned to give  
 4747 representation to the state at large rather than to a particular  
 4748 area.  
 4749 (4) Membership on the council shall not disqualify a  
 4750 member from holding any other public office or being employed by  
 4751 a public entity, except that no member of the Legislature shall  
 4752 serve on the council.  
 4753 ~~633.32—Organization; meetings; quorum; compensation~~  
 4754 ~~seat.~~  
 4755 (5) ~~(4)~~ The council shall elect to 1-year terms a chair and  
 4756 a vice chair. No person shall serve more than two consecutive  
 4757 terms in either office.  
 4758 (6) ~~(2)~~ The council shall meet at the call of the chair, at  
 4759 the request of a majority of its membership, at the request of  
 4760 the department, or at such times as may be prescribed by its



4789 ~~limited to the safety of firefighters while at the scene of a~~  
 4790 ~~fire at the scene of an incident related to the provision of~~  
 4791 ~~emergency services to which a firefighter responds, and the~~  
 4792 ~~development of firefighter training schools and programs of~~  
 4793 ~~sources of instruction, including, but not limited to, education~~  
 4794 ~~and training in the areas of firefighter employment, fire~~  
 4795 ~~science, fire technology, fire administration, and all allied~~  
 4796 ~~and supporting fields.~~

4797 (d) ~~(5)~~ Make or support studies on any aspect of  
 4798 firefighting employment, education, and training or recruitment.  
 4799 (e) ~~(6)~~ Make recommendations concerning any matter within  
 4800 its purview pursuant to this section ~~set~~.

4801 Section 58. Section 633.42, Florida Statutes, is  
 4802 transferred and renumbered as 633.404, Florida Statutes, and  
 4803 amended to read:

4804 633.404 ~~633.42~~ Additional standards authorized.—Nothing  
 4805 herein shall be construed to preclude an fire service provider  
 4806 ~~employing agency~~ from establishing qualifications and standards  
 4807 for hiring, training, or promoting firefighters that exceed the  
 4808 minimum set by the division ~~department~~.

4809 Section 59. Section 633.406, Florida Statutes, is created  
 4810 to read:

4811 633.406 Classes of certification.—  
 4812 (1) The division may award one or more of the following  
 4813 certificates:

4814 (a) Firefighter Certificate of Compliance.—A Firefighter  
 4815 Certificate of Compliance may be awarded to a person who meets  
 4816 the requirements established in s. 633.408(4).

4761 rules, and a majority of the council shall constitute a quorum.  
 4762 (7) ~~(7)~~ Members of the council shall serve without  
 4763 compensation but shall be entitled to be reimbursed for per diem  
 4764 and travel expenses as provided by s. 112.061.

4765 (8) ~~(4)~~ The council may adopt a seal for its use containing  
 4766 the words "Firefighters Employment, Standards, and Training  
 4767 Council."

4768 ~~633.33~~ ~~Special powers, firefighter training.~~  
 4769 (9) The council shall have special powers in connection  
 4770 with the employment and training of firefighters to:

4771 (a) ~~(4)~~ Recommend, for adoption by the division, uniform  
 4772 minimum standards for the employment and training of  
 4773 firefighters and training of volunteer firefighters.

4774 (b) ~~(2)~~ Recommend, for adoption by the division, minimum  
 4775 curriculum requirements for schools operated by or for any fire  
 4776 service provider ~~employing agency~~ for the specific purpose of  
 4777 training firefighter trainees, ~~services of~~ firefighters, and  
 4778 volunteer firefighters.

4779 (c) ~~(2)~~ Recommend, for adoption by the division, on matters  
 4780 relating to the funding, general operation, and administration  
 4781 of the Bureau of Fire Standards and Training (Florida State Fire  
 4782 College), including, but not limited to, all standards,  
 4783 training, curriculum, and the issuance of any certificate of  
 4784 competency required by this chapter.

4785 ~~(4) Condit and cooperate with any employing agency~~  
 4786 ~~university, college, community college, the Florida State Fire~~  
 4787 ~~College, or other educational institution concerning the~~  
 4788 ~~employment and safety of firefighters, including, but not~~

4845 may award in recognition of special training or education  
 4846 received by an individual, which authorizes that individual to  
 4847 perform specialized firefighting services or provide specialized  
 4848 firefighting instruction, such as hazardous materials and urban  
 4849 search and rescue.  
 4850 Section 60. Section 633.35, Florida Statutes, is  
 4851 transferred and renumbered as subsections (1) and (2), paragraph  
 4852 (a) of subsection (3), and subsections (4), (5), (6), (7), and  
 4853 (8) of section 633.408, Florida Statutes, and amended, and  
 4854 section 633.37, Florida Statutes, is transferred and renumbered  
 4855 as paragraph (b) of subsection (3) of that section, and amended,  
 4856 to read:

4857 633.408 ~~633.35~~ Firefighter and volunteer firefighter  
 4858 training and certification.—  
 4859 (1) The division shall establish by rule:  
 4860 (a) A Minimum Standards Course and course examination to  
 4861 provide the training required to obtain a Firefighter  
 4862 Certificate of Compliance;

4863 (b) Courses and course examinations to provide training  
 4864 required to obtain a Volunteer Firefighter Certificate of  
 4865 Completion or a Special Certificate of Compliance; and  
 4866 (c) Courses to provide continuing training for  
 4867 firefighters and volunteer firefighters.

4868 (2) Courses under subsection (1) may only be administered  
 4869 by education or training providers approved by the division  
 4870 pursuant to s. 633.128(1)(c) and taught by instructors certified  
 4871 pursuant to s. 633.128(1)(d) ~~a firefighter training program of~~  
 4872 ~~not less than 360 hours, administered by such agencies and~~

4817 (b) Fire Safety Inspector Certificate of Compliance.—A  
 4818 Fire Safety Inspector Certificate of Compliance may be awarded  
 4819 to a person who meets the requirements established in s.  
 4820 633.216(2).

4821 (c) Special Certificate of Compliance.—A Special  
 4822 Certificate of Compliance may be awarded to a person who  
 4823 qualifies under s. 633.408(6).

4824 (d) Forestry Certificate of Compliance.—A Forestry  
 4825 Certificate of Compliance may be awarded to a person who has  
 4826 satisfactorily complied with a training program and successfully  
 4827 passed an examination as prescribed by rule, and who possesses  
 4828 the qualifications established in s. 590.02(1)(e).

4829 (e) Fire Service Instructor Certificate.—A Fire Service  
 4830 Instructor Certificate may be awarded to a person who  
 4831 demonstrates general or specialized knowledge, skills, and  
 4832 abilities in firefighting service and meets the qualification  
 4833 requirements prescribed by rule.

4834 (f) Certificate of Competency.—A Certificate of Competency  
 4835 may be awarded to a person who meets the experience, training,  
 4836 advanced education, or examination requirements as prescribed by  
 4837 rule, and are especially qualified for particular aspects of  
 4838 firefighting service.

4839 (g) Volunteer Firefighter Certificate of Completion.—A  
 4840 Fire Service Instructor Certificate may be awarded to a person  
 4841 who has satisfactorily completed the training requirements as  
 4842 prescribed by rule for a volunteer firefighter.

4843 (2) The division may establish by rule certificates, in  
 4844 addition to those provided in subsection (1), that the division

4873 ~~institutions as it approves for the purpose of providing basic~~  
 4874 ~~employment training for firefighters.~~  
 4875 (3) (a) Nothing herein shall require a fire service  
 4876 provider public employer to pay the cost of such training.  
 4877 ~~633.37 Payment of tuition by employing agency.~~  
 4878 (b) A fire service provider an employing agency is  
 4879 authorized to pay part or all of the costs of tuition for of  
 4880 ~~trainees~~ in attendance at approved courses ~~training programs~~.  
 4881 (4) ~~(2)~~ The division shall issue a firefighter certificate  
 4882 of compliance to any individual who:  
 4883 (a) ~~person~~ Satisfactorily completes ~~employing with the~~  
 4884 Minimum Standards Course or who has satisfactorily completed  
 4885 training for firefighters in another state which has been  
 4886 determined by the division to be at least the equivalent of the  
 4887 training required for the Minimum Standards Course;  
 4888 (b) Passes the minimum standards course examination;  
 4889 ~~training program established in subsection (1) who has~~  
 4890 ~~successfully passed an examination as prescribed by the~~  
 4891 ~~division~~ and  
 4892 (c) ~~who~~ Possesses the qualifications ~~for employment~~ in s.  
 4893 633.412 633.34, except e. 633.34(5).  
 4894 (5) The division shall issue a Volunteer Firefighter  
 4895 Certificate of Completion to any individual who satisfactorily  
 4896 completes the course established under paragraph (1) (b). ~~no~~  
 4897 ~~person may be employed as a regular or permanent firefighter by~~  
 4898 ~~an employing agency or by a private entity under contract with~~  
 4899 ~~the state or any political subdivision of the state, including~~  
 4900 ~~authorities and special districts, for a period of time in~~

4901 ~~excess of 1 year from the date of initial employment until he or~~  
 4902 ~~she has obtained such certificate of compliance. A person who~~  
 4903 ~~does not hold a certificate of compliance and is employed under~~  
 4904 ~~this section may not directly engage in hazardous operations~~  
 4905 ~~such as interior structural firefighting and hazardous~~  
 4906 ~~materials incident mitigation, requiring the knowledge and~~  
 4907 ~~skills taught in a training program established in subsection~~  
 4908 ~~(1). However, a person who has served as a volunteer firefighter~~  
 4909 ~~with the state or any political subdivision of the state~~  
 4910 ~~including authorities and special districts, who is then~~  
 4911 ~~employed as a regular or permanent firefighter may function~~  
 4912 ~~during this period, in the same capacity in which he or she~~  
 4913 ~~acted as a volunteer firefighter, provided that he or she has~~  
 4914 ~~completed all training required by the volunteer organization.~~  
 4915 ~~(3) The division may issue a certificate to any person who~~  
 4916 ~~has received basic employment training for firefighters in~~  
 4917 ~~another state when the division has determined that such~~  
 4918 ~~training was at least equivalent to that required by the~~  
 4919 ~~division for approved firefighter education and training~~  
 4920 ~~programs in this state and when such person has satisfactorily~~  
 4921 ~~completed with all other requirements of this section.~~  
 4922 (6) (a) The division may ~~also~~ issue a Special Certificate  
 4923 of Compliance to an individual ~~a person~~ who:  
 4924 1. Satisfactorily completes the course established in  
 4925 subsection (1) (b) to obtain a Special Certificate of Compliance;  
 4926 2. Passes the examination established in subsection  
 4927 (1) (b), to obtain a Special Certificate of Compliance; and  
 4928 3. Possesses the qualifications in s. 633.412 ~~is otherwise~~

4929 ~~qualified under this section and who is employed as the~~  
 4930 ~~administrative and command head of a fire/rescue/emergency~~  
 4931 ~~services organization, based on the acknowledgment that such~~  
 4932 ~~person is less likely to need physical dexterity and more likely~~  
 4933 ~~to need advanced knowledge of firefighting and supervisory~~  
 4934 ~~skills.~~  
 4935 (b) A special the certificate of compliance is valid only  
 4936 authorizes an individual to serve while the person is serving in  
 4937 a position as an administrative and command head of a fire  
 4938 service provider fire/rescue/emergency services organization.  
 4939 (7)(4) An individual a person who fails an examination  
 4940 given under this section may retake the examination once within  
 4941 6 months after the original examination date. If the individual  
 4942 an applicant who does not retake the examination or fails the  
 4943 reexamination within such time, the individual must take the  
 4944 Minimum Standards Course for a Firefighter Certificate of  
 4945 Compliance or the course established under subsection (1)(b) for  
 4946 a Special Certificate of Compliance, pursuant to subsection (1)  
 4947 before being reexamined. The division may grant an extension of  
 4948 the 6-month period based upon documented medical necessity and  
 4949 may establish reasonable preregistration deadlines for such  
 4950 reexaminations.  
 4951 (8)(5) Pursuant to s. 590.02(1)(e), the division shall  
 4952 establish a structural fire training program of not less than  
 4953 206 40 hours. The division shall issue to any person  
 4954 satisfactorily complying with this training program and who has  
 4955 successfully passed an examination as prescribed by the division  
 4956 and who has met the requirements of s. 590.02(1)(e), a Forestry

4957 Certificate of Compliance ~~Certificate of Forestry Firefighter.~~  
 4958 ~~(6) An individual who holds a current and valid Forestry~~  
 4959 Certificate of Compliance ~~A certified forestry firefighter is~~  
 4960 entitled to the same rights, privileges, and benefits provided  
 4961 for by law as a certified firefighter.  
 4962 Section 61. Section 633.34, Florida Statutes, is  
 4963 transferred, renumbered as section 633.412, Florida Statutes,  
 4964 and amended to read:  
 4965 633.412 633.34 Firefighters; qualifications for  
 4966 certification employment. -  
 4967 (1) Any person applying for certification employment as a  
 4968 firefighter must:  
 4969 (a)(4) Be a high school graduate or the equivalent, as the  
 4970 term may be determined by the division, and at least 18 years of  
 4971 age.  
 4972 (b)(2) Not ~~Neither~~ have been convicted of a misdemeanor  
 4973 relating to the certification or to perjury or false statements,  
 4974 or a felony or a crime punishable by imprisonment of 1 year or  
 4975 more under the law of the United States or of any state thereof  
 4976 or under the law of any other country, or dishonorably  
 4977 discharged from any of the Armed Forces of the United States.  
 4978 "Convicted" means a finding of guilt or the acceptance of a plea  
 4979 of guilty or nolo contendere, in any federal or state court or a  
 4980 court in any other country, without regard to whether a judgment  
 4981 of conviction has been entered by the court having jurisdiction  
 4982 of the case. ~~felony or of a misdemeanor directly related to the~~  
 4983 ~~position of employment sought, nor have pled nolo contendere to~~  
 4984 ~~any charge of a felony. If an applicant has been convicted of a~~

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4985 ~~felony~~ each applicant ~~must be in compliance with~~ ~~o-~~  
 4986 ~~112.011(2)(b)~~. ~~If an applicant has been convicted of a~~  
 4987 ~~misdeemeanor directly related to the position of employment~~  
 4988 ~~sought, such applicant shall be excluded from employment for a~~  
 4989 ~~period of 4 years after expiration of sentence. If the sentence~~  
 4990 ~~is suspended or adjudication is withheld in a felony charge or~~  
 4991 ~~in a misdemeanor directly related to the position of employment~~  
 4992 ~~sought and a period of probation is imposed, the applicant must~~  
 4993 ~~have been released from probation.~~  
 4994 (c) ~~(3)~~ Submit fingerprints a fingerprint card to the  
 4995 division with a current processing fee. The fingerprints  
 4996 ~~fingerprint card~~ will be forwarded to the Department of Law  
 4997 Enforcement for state processing, and forwarded by the  
 4998 Department of Law Enforcement to ~~and/or~~ the Federal Bureau of  
 4999 Investigation for national processing.

5000 (d) ~~(4)~~ Have a good moral character as determined by  
 5001 investigation under procedure established by the division.  
 5002 (e) ~~(5)~~ Be in good physical condition as determined by a  
 5003 medical examination given by a physician, surgeon, or physician  
 5004 assistant licensed to practice in the state pursuant to chapter  
 5005 458; an osteopathic physician, surgeon, or physician assistant  
 5006 licensed to practice in the state pursuant to chapter 459; or an  
 5007 advanced registered nurse practitioner licensed to practice in  
 5008 the state pursuant to chapter 464. Such examination may include,  
 5009 but need not be limited to, provisions of the National Fire  
 5010 Protection Association Standard 1582. A medical examination  
 5011 evidencing good physical condition shall be submitted to the  
 5012 division, on a form as provided by rule, before an individual is

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5013 eligible for admission into a course under firefighter training  
 5014 ~~program as defined in s. 633.408 633.35.~~

5015 (f) ~~(6)~~ Be a nonuser of tobacco or tobacco products for at  
 5016 least 1 year immediately preceding application, as evidenced by  
 5017 the sworn affidavit of the applicant.

5018 (2) If the division suspends or revokes an individual's  
 5019 certificate, the division must suspend or revoke all other  
 5020 certificates issued by the division pursuant to this part.

5021 Section 62. Section 633.352, Florida Statutes, is  
 5022 transferred, renumbered as section 633.414, Florida Statutes,  
 5023 and amended to read:

5024 633.414 633.352 Retention of firefighter certification.—

5025 (1) In order for a firefighter to retain his or her  
 5026 Firefighter Certificate of Compliance, every 4 years he or she  
 5027 must:

5028 (a) Be any certified firefighter who has not been active  
 5029 as a firefighter or as a volunteer firefighter with an  
 5030 organized fire department, for a period of 3 years shall be  
 5031 required to retake the practical portion of the minimum  
 5032 standards state examination specified in rule 69A-37.056(6)(b)7  
 5033 Florida Administrative Code, in order to maintain her or his  
 5034 certification as a firefighter;

5035 (b) Maintain a current and valid fire service instructor  
 5036 certificate, instruct at least 40 hours during the 4 year  
 5037 period, and provide proof of such instruction to the division,  
 5038 which proof must be registered in an electronic database  
 5039 designated by the division;

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5040 (c) Successfully complete a refresher course consisting of  
 5041 a minimum of 40 hours of training to be prescribed by rule; or  
 5042 (d) Within 6 months before the 4-year period expires,  
 5043 successfully retake and pass the Minimum Standards Course  
 5044 examination.  
 5045 (2) In order for a volunteer firefighter to retain his or  
 5046 her Volunteer Firefighter Certificate of Completion, every 4  
 5047 years he or she must:  
 5048 (a) Be active as a volunteer firefighter; or  
 5049 (b) Successfully complete a refresher course consisting of  
 5050 a minimum of 40 hours of training to be prescribed by rule.  
 5051 (3) Subsection (1) ~~however, the requirement~~ does not  
 5052 apply to state-certified firefighters who are certified and  
 5053 employed ~~as~~ full-time, as determined by the fire service  
 5054 provider, as firesafety inspectors or fire investigators  
 5055 ~~firesafety inspectors~~, regardless of their the firefighter's  
 5056 employment status as a firefighter.  
 5057 (4) For the purposes of this section, "active" means being  
 5058 employed as a firefighter or providing service as a volunteer  
 5059 firefighter for a cumulative 6 months within a 4-year period.  
 5060 (5) The 4-year ~~3-year~~ period begins:  
 5061 (a) If the individual is certified on or after July 1,  
 5062 2013, on the date the certificate ~~of compliance~~ is issued or  
 5063 upon termination of employment or service with a ~~an organized~~  
 5064 fire department.  
 5065 (b) If the individual is certified before July 1, 2013, on  
 5066 July 1, 2014, or upon termination of employment or service  
 5067 thereafter.

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5068 Section 63. Section 633.41, Florida Statutes, is  
 5069 transferred, renumbered as section 633.416, Florida Statutes,  
 5070 and amended to read:  
 5071 633.416 ~~633.41~~ Firefighter employment and volunteer  
 5072 firefighter service; saving clause.—  
 5073 (1) A fire service provider may not employ an individual  
 5074 to:  
 5075 (a) Extinguish fires for the protection of life or  
 5076 property or to supervise individuals who perform such services  
 5077 unless the individual holds a current and valid Firefighter  
 5078 Certificate of Compliance; or  
 5079 (b) Serve as the administrative and command head of a fire  
 5080 service provider for a period in excess of 1 year unless the  
 5081 individual holds a current and valid Firefighter Certificate of  
 5082 Compliance or Special Certificate of Compliance.  
 5083 (2) A fire service provider may not retain the services of  
 5084 an individual volunteering to extinguish fires for the  
 5085 protection of life or property or to supervise individuals who  
 5086 perform such services unless the individual holds a current and  
 5087 valid Volunteer Firefighter Certificate of Completion.  
 5088 (3) (a) A fire service provider must make a diligent effort  
 5089 to determine whether the individual has a current and valid  
 5090 certificate prior to employing or retaining an individual for  
 5091 the services under subsection (1) or subsection (2), including  
 5092 making a determination of whether the requirements set forth in  
 5093 s. 633.414 have been fulfilled.  
 5094 (b) For the purposes of this subsection, the term  
 5095 "diligent effort" means contacting at least three of the



5096 individual's previous employers to obtain his or her dates of  
 5097 employment and contacting the division to determine the  
 5098 certification status of the individual.

(4) (a) A fire service provider must notify the division  
 5100 electronically, as directed by rule by the division, within 10  
 5101 days of:

1. The hiring of a firefighter.
2. The retention of a volunteer firefighter.
3. The cessation of employment of a firefighter.
4. A decision not to retain a volunteer firefighter.

(b) Notification under paragraph (a) must include:

1. The individual's name.
2. The date on which he or she was hired or retained.
3. The last date of employment or retention prior to leaving the fire service provider.

4. Any other information deemed necessary by the division to determine compliance with ss. 633.414 and 633.426.

(5) If the fire service provider makes a determination that an individual has not met the requirements set forth in s. 633.414(1), the fire service provider must notify the division in writing within 10 days of making that determination.

(6) The division may conduct site visits to fire departments to monitor compliance with this section.

(7) For purposes of this section, the term "employ" means to pay an individual a salary, wage, or other compensation for the performance of work. The term does not include the payment of expenses, reasonable benefits, a nominal fee, or a combination thereof, to a volunteer for a public or private fire

5124 service provider who is only paid in a manner that would be  
 5125 authorized for a volunteer under the federal Fair Labor  
 5126 Standards Act of 1938, as amended, 29 U.S.C. ss. 201 et seq.,  
 5127 and its implementing regulations.

(8) Firefighters employed on July 5, 1969, are not  
 5128 required to meet the provisions of ss. 633.408 and 633.412  
 5129 ~~633.34 and 633.35~~ as a condition of tenure or continued

employment; nor shall their failure to fulfill such requirements  
 5131 make them ineligible for any promotional examination for which  
 5132 they are otherwise eligible or affect in any way any pension  
 5133 rights to which they may be entitled on July 5, 1969.

Section 64. Section 633.38, Florida Statutes, is

5135 transferred, renumbered as section 633.418, Florida Statutes,  
 5136 and amended to read:

633.418 ~~633.38~~ Inservice training and promotion;  
 5138 participation.—

(1) (a) The division shall by rules and regulations  
 5139 (1) (a) prescribe curricula and standards for advanced and specialized  
 5140 training courses and education ~~training~~ in addition to those  
 5141 prescribed in ss. 633.412 and 633.408 ~~633.34 and 633.35~~.

(b) The standards provided by this section shall not bind  
 5142 any fire service provider ~~employing agency~~ as to the  
 5143 requirements it may have for promoting personnel.

(2) Fire service providers ~~departments or any fire service~~  
 5144 participating under the provisions of this section shall adhere  
 5145 to the standards and procedures established by the division.

Section 65. Section 633.382, Florida Statutes, is  
 5146 transferred, renumbered as section 633.422, Florida Statutes,  
 5147

5180 and amended to read:  
 5181 633.422 633.382 Firefighters; supplemental compensation. —  
 5182 ~~(1) DEFINITIONS. As used in this section, the term:~~  
 5183 ~~(a) "Employing agency" means any municipality or any~~  
 5184 ~~county, the state, or any political subdivision of the state,~~  
 5185 ~~including authorities and special districts employing~~  
 5186 ~~firefighters.~~  
 5187 ~~(b) "Firefighter" means any person who meets the~~  
 5188 ~~definition of the term "firefighter" in s. 633.30(1) who is~~  
 5189 ~~certified in compliance with s. 633.35 and who is employed~~  
 5190 ~~solely within the fire department of the employing agency or is~~  
 5191 ~~employed by the division.~~  
 5192 (1) (2) QUALIFICATIONS FOR SUPPLEMENTAL COMPENSATION.—The  
 5193 legislature recognizes the need for supplemental compensation  
 5194 for firefighters who pursue higher educational opportunities  
 5195 that directly relate to the improvement of the health, safety,  
 5196 and welfare of firefighters and those that firefighters protect.  
 5197 The State Fire Marshal shall determine, and is authorized to  
 5198 adopt by rule, the course work or degrees that represent the  
 5199 best practices toward this goal in the field of firefighting.  
 5200 (a) In addition to the compensation now paid by a fire  
 5201 service provider ~~an employing agency~~ to any firefighter, every  
 5202 firefighter shall be paid supplemental compensation by the fire  
 5203 service provider ~~employing agency~~ when such firefighter is a  
 5204 full-time employee, as determined by the employing fire service  
 5205 provider, and has complied with one of the following criteria:  
 5206 1. Any firefighter who receives an associate degree from  
 5207 an accredited  college, which degree is directly applicable to

5180 fire department duties, as outlined in policy guidelines adopted  
 5181 by rule by  the division, shall be additionally compensated as  
 5182 outlined in paragraph (2) (3) (a).  
 5183 2. Any firefighter, regardless of whether or not she or he  
 5184 earned an associate degree earlier, who receives from an  
 5185 accredited college or university a bachelor's degree, which  
 5186 bachelor's degree is directly applicable to fire department  
 5187 duties, as outlined in policy guidelines adopted by rule by   
 5188 the division, shall receive compensation as outlined in  
 5189 paragraph (2) (3) (b).  
 5190 (b) Whenever any question arises as to the eligibility of  
 5191 any firefighter to receive supplemental compensation as provided  
 5192 in this section, the question, together with all facts relating  
 5193 thereto, shall be submitted to the division for determination,  
 5194 and the decision of the division with regard to determination of  
 5195 eligibility shall be final, subject to the provisions of chapter  
 5196 120.  
 5197 (2) (3) SUPPLEMENTAL COMPENSATION.—Supplemental  
 5198 compensation shall be determined as follows:  
 5199 (a) Fifty dollars shall be paid monthly to each  
 5200 firefighter who qualifies under the provisions of subparagraph  
 5201 (1) (2) (a) 1.  
 5202 (b) One hundred and ten dollars shall be paid monthly to  
 5203 each firefighter who qualifies under the provisions of  
 5204 subparagraph (1) (2) (a) 2.  
 5205 (3) (4) FUNDING.—  
 5206 (a) The fire service provider ~~employing agency~~ is  
 5207 responsible for the correct payment of firefighters pursuant to

5152 and amended to read:  
 5153 633.422 633.382 Firefighters; supplemental compensation. —  
 5154 ~~(1) DEFINITIONS. As used in this section, the term:~~  
 5155 ~~(a) "Employing agency" means any municipality or any~~  
 5156 ~~county, the state, or any political subdivision of the state,~~  
 5157 ~~including authorities and special districts employing~~  
 5158 ~~firefighters.~~  
 5159 ~~(b) "Firefighter" means any person who meets the~~  
 5160 ~~definition of the term "firefighter" in s. 633.30(1) who is~~  
 5161 ~~certified in compliance with s. 633.35 and who is employed~~  
 5162 ~~solely within the fire department of the employing agency or is~~  
 5163 ~~employed by the division.~~  
 5164 (1) (2) QUALIFICATIONS FOR SUPPLEMENTAL COMPENSATION.—The  
 5165 legislature recognizes the need for supplemental compensation  
 5166 for firefighters who pursue higher educational opportunities  
 5167 that directly relate to the improvement of the health, safety,  
 5168 and welfare of firefighters and those that firefighters protect.  
 5169 The State Fire Marshal shall determine, and is authorized to  
 5170 adopt by rule, the course work or degrees that represent the  
 5171 best practices toward this goal in the field of firefighting.  
 5172 (a) In addition to the compensation now paid by a fire  
 5173 service provider ~~an employing agency~~ to any firefighter, every  
 5174 firefighter shall be paid supplemental compensation by the fire  
 5175 service provider ~~employing agency~~ when such firefighter is a  
 5176 full-time employee, as determined by the employing fire service  
 5177 provider, and has complied with one of the following criteria:  
 5178 1. Any firefighter who receives an associate degree from  
 5179 an accredited  college, which degree is directly applicable to



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5208 the provisions of this section. The division may review, in a  
 5209 postaudit capacity, any action taken by an agency in  
 5210 administering the educational incentive program. The fire  
 5211 service provider ~~employing agency~~ shall take appropriate action  
 5212 when a postaudit shows that an action taken by the fire service  
 5213 provider ~~employing agency~~ was in error.  
 5214 (b) Each fire service provider ~~agency~~ employing  
 5215 firefighters who are eligible for this compensation shall submit  
 5216 reports containing information relating to compensation paid as  
 5217 a result of this section to the division on March 31, June 30,  
 5218 September 30, and December 31 of each year.

5219 (c) There is appropriated from the Police and  
 5220 Firefighter's Premium Tax Trust Fund to the Firefighters'  
 5221 Supplemental Compensation Trust Fund, which is hereby created  
 5222 under the Department of Revenue, all moneys which have not been  
 5223 distributed to municipalities and special fire control districts  
 5224 in accordance with s. 175.121 as a result of the limitation  
 5225 contained in s. 175.122 on the disbursement of revenues  
 5226 collected pursuant to chapter 175 or as a result of any  
 5227 municipality or special fire control district not having  
 5228 qualified in any given year, or portion thereof, for  
 5229 participation in the distribution of the revenues collected  
 5230 pursuant to chapter 175. The total required annual distribution  
 5231 from the Firefighters' Supplemental Compensation Trust Fund  
 5232 shall equal the amount necessary to pay supplemental  
 5233 compensation as provided in this section, provided that:  
 5234 1. Any deficit in the total required annual distribution  
 5235 shall be made up from accrued surplus funds existing in the

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5236 Firefighters' Supplemental Compensation Trust Fund on June 30,  
 5237 1990, for as long as such funds last. If the accrued surplus is  
 5238 insufficient to cure the deficit in any given year, the  
 5239 prororation of the appropriation among the counties,  
 5240 municipalities, and special fire service taxing districts shall  
 5241 equal the ratio of compensation paid in the prior year to  
 5242 county, municipal, and special fire service taxing district  
 5243 firefighters pursuant to this section. This ratio shall be  
 5244 provided annually to the Department of Revenue by the division  
 5245 ~~of State Fire Marshal~~. Surplus funds that have accrued or accrue  
 5246 on or after July 1, 1990, shall be redistributed to  
 5247 municipalities and special fire control districts as provided in  
 5248 subparagraph 2.

5249 2. By October 1 of each year, any funds that have accrued  
 5250 or accrue on or after July 1, 1990, and remain in the  
 5251 Firefighters' Supplemental Compensation Trust Fund following the  
 5252 required annual distribution shall be redistributed by the  
 5253 Department of Revenue pro rata to those municipalities and  
 5254 special fire control districts identified by the Department of  
 5255 Management Services as being eligible for additional funds  
 5256 pursuant to s. 175.121(3)(b).  
 5257 (d) Salary incentive payments to firefighters shall  
 5258 commence in the first full calendar month following the initial  
 5259 date of certification of eligibility by the division ~~of State~~  
 5260 ~~Fire Marshal~~.  
 5261 (e) Special fire service taxing districts are authorized  
 5262 and empowered to expend the funds necessary to ensure correct  
 5263 payment to firefighters.

5264 (4) ~~(5)~~ LEGISLATIVE FINDINGS.—The payment of supplemental  
 5265 compensation and expenses of the administration provided by this  
 5266 section is found to serve a state, county, district, and  
 5267 municipal purpose and to provide benefit to the state and to its  
 5268 counties, municipalities, and districts.  
 5269 (5) For the purposes of this section, the division shall be  
 5270 considered a fire service provider responsible for the payment  
 5271 of supplemental compensation in accordance with this section to  
 5272 firefighters employed full-time by the division.  
 5273 Section 66. Section 633.353, Florida Statutes, is  
 5274 transferred, renumbered as section 633.424, Florida Statutes,  
 5275 and amended to read:  
 5276 633.424 ~~633.353~~ Falsification of qualifications.—Any  
 5277 individual ~~person~~ who willfully and knowingly falsifies her or  
 5278 his ~~the~~ qualifications ~~of a new employee~~ to the Bureau of Fire  
 5279 Standards and Training of the division commits ~~is guilty of~~ a  
 5280 misdemeanor of the second degree, punishable as provided in s.  
 5281 775.082 or s. 775.083.  
 5282 Section 67. Section 633.351, Florida Statutes, is  
 5283 transferred, renumbered as section 633.426, Florida Statutes,  
 5284 and amended to read:  
 5285 633.426 ~~633.351~~ Disciplinary action; ~~firefighter~~  
 5286 standards for revocation of certification.—  
 5287 (1) For purposes of this section, the term:  
 5288 (a) "Certificate" means any of the certificates issued  
 5289 under s. 633.406.  
 5290 (b) "Certification" or "certified" means the act of  
 5291 holding a current and valid certificate.

5292 (c) "Convicted" means a finding of guilt, or the  
 5293 acceptance of a plea of guilty or nolo contendere, in any  
 5294 federal or state court or a court in any other country, without  
 5295 regard to whether a judgment of conviction has been entered by  
 5296 the court having jurisdiction of the case.  
 5297 (2) An individual is ineligible to apply for certification  
 5298 if the individual has, at any time, been:  
 5299 (a) Convicted of a misdemeanor relating to the  
 5300 certification or to perjury or false statements.  
 5301 (b) Convicted of a felony or a crime punishable by  
 5302 imprisonment of 1 year or more under the law of the United  
 5303 States or of any state thereof, or under the law of any other  
 5304 country.  
 5305 (c) Dishonorably discharged from any of the Armed Forces  
 5306 of the United States.  
 5307 (3) (a) The certification of an individual shall be  
 5308 permanently revoked if the individual is:  
 5309 1. Convicted of a misdemeanor relating to perjury or false  
 5310 statement.  
 5311 2. Convicted of a felony or a crime punishable by  
 5312 imprisonment of 1 year or more under the law of the United  
 5313 States or of any state thereof, or under the law of any other  
 5314 country.  
 5315 3. Dishonorably discharged from any of the Armed Forces of  
 5316 the United States.  
 5317 (b) For individuals who are certified prior to the  
 5318 effective date of this act:  
 5319 1. This subsection shall apply prospectively to

5320 convictions or dishonorable discharges entered on or after the  
 5321 effective date of this act.

5322 2. The provisions of former s. 633.351 as it existed prior  
 5323 to the effective date of this act shall apply to convictions  
 5324 entered prior to the effective date of this act.

5325 (4) The certification of an individual ~~a firefighter~~ shall  
 5326 be revoked if evidence is found which demonstrates that the  
 5327 certification was improperly issued by the division or ~~if~~  
 5328 ~~evidence is found that the certification~~ was issued on the basis  
 5329 of false, incorrect, incomplete, or misleading information, or  
 5330 that the individual has demonstrated a lack of moral fitness or  
 5331 trustworthiness to carry out the responsibilities under the  
 5332 individual's certification.

5333 (5) If the division, after investigation, has reason to  
 5334 believe that any individual who is certified may have been  
 5335 convicted of a felony or of a misdemeanor related to perjury or  
 5336 false statement in this or any other state or jurisdiction, the  
 5337 division may require the individual to submit fingerprints to  
 5338 the division with a current processing fee. The fingerprints  
 5339 will be forwarded by the division to the Department of Law  
 5340 Enforcement for state processing and will be forwarded by the  
 5341 Department of Law Enforcement to the Federal Bureau of  
 5342 Investigation for national processing.

5343 (2) ~~The certification of a firefighter who is convicted of~~  
 5344 ~~a felony, or who is convicted of a misdemeanor relating to~~  
 5345 ~~misleading or false statements, or who pleads nolo contendere to~~  
 5346 ~~any charge of a felony shall be revoked until the firefighter~~  
 5347 ~~complies with s. 112.011(2)(b). However, if sentence upon such~~

5348 ~~felony or such misdemeanor charge is suspended or adjudication~~  
 5349 ~~is withheld, the firefighter's certification shall be revoked~~  
 5350 ~~until she or he completes any probation.~~

5351 Section 68. Section 633.43, Florida Statutes, is  
 5352 transferred, renumbered as section 633.428, Florida Statutes,  
 5353 and amended to read:

5354 633.428 ~~633.43~~ Florida State Fire College established.—  
 5355 There is hereby established a state institution to be known as  
 5356 the Florida State Fire College, to be located at or near Ocala,  
 5357 Marion County. The institution shall be operated by the division  
 5358 ~~of State Fire Marshal of the department.~~

5359 Section 69. Section 633.44, Florida Statutes, is  
 5360 transferred, renumbered as section 633.432, Florida Statutes,  
 5361 and amended, to read:

5362 633.432 ~~633.44~~ Purpose of fire college.—The purposes of  
 5363 this part ~~69, 633.43, 633.49~~ and of the Florida State Fire  
 5364 College shall be:

5365 (1) To provide professional and volunteer firefighters  
 5366 with needful professional instruction and training in subjects,  
 5367 including, but not limited to, firefighting, fire prevention,  
 5368 hazardous materials, urban search and rescue, and emergency  
 5369 operations, at a minimum of cost to them and to their employers.

5370 (2) To ensure the professionalism and competence of those  
 5371 performing firefighting, fire prevention, and associated fire  
 5372 protection functions by administering a system of certification  
 5373 and licensing.

5374 (3) ~~(2)~~ To develop new methods and practices of  
 5375 firefighting and fire prevention.

5404 Section 71. Section 633.461, Florida Statutes, is  
 5405 transferred, renumbered as section 633.436, Florida Statutes,  
 5406 and amended to read:  
 5407 ~~633.436~~ 633.461 Use of Insurance Regulatory Trust Fund.—  
 5408 The funds received from the Insurance Regulatory Trust Fund  
 5409 shall be used by the staff of the Florida State Fire College to  
 5410 provide all necessary services, training, equipment, and  
 5411 supplies to carry out the college's responsibilities, including,  
 5412 but not limited to, ~~the State Fire Marshal Scholarship Grant~~  
 5413 ~~program and the procurement of training resources and filler~~  
 5414 ~~wildtypes, audiovisual~~ equipment, and other useful information  
 5415 on fire, firefighting, and fire prevention, including public  
 5416 fire service information packages.  
 5417 Section 72. Section 633.46, Florida Statutes, is  
 5418 transferred and renumbered as section 633.446, Florida Statutes.  
 5419 Section 73. Section 633.47, Florida Statutes, is  
 5420 transferred and renumbered as section 633.438, Florida Statutes.  
 5421 Section 74. Section 633.49, Florida Statutes, is  
 5422 transferred, renumbered as section 633.442, Florida Statutes,  
 5423 and amended to read:  
 5424 633.442 ~~633.49~~ Buildings, equipment, and other facilities;  
 5425 use.—The division shall have the power to prescribe and shall  
 5426 make the necessary rules and regulations for the use of  
 5427 buildings, equipment and other facilities of the Florida State  
 5428 Fire College when they are not in use for the purposes set forth  
 5429 in this part ~~633.43~~ ~~633.49~~.  
 5430 Section 75. Section 633.50, Florida Statutes, is  
 5431 transferred, renumbered as section 633.444, Florida Statutes,

5376 ~~(4)~~ ~~(3)~~ To assist the state and county, municipal, and  
 5377 other local governments of this state and their agencies and  
 5378 officers in their investigation and determination of the causes  
 5379 of fires.  
 5380 ~~(5)~~ ~~(4)~~ To provide testing facilities for testing  
 5381 firefighting equipment.  
 5382 ~~(6)~~ ~~(5)~~ To disseminate useful information on fires,  
 5383 firefighting and fire prevention and other related subjects, to  
 5384 fire departments and others interested in such information.  
 5385 ~~(7)~~ ~~(6)~~ To do such other needful or useful things necessary  
 5386 to the promotion of public safety in the field of fire hazards  
 5387 and fire prevention work.  
 5388  
 5389 It is hereby declared by the Legislature that the above purposes  
 5390 are legitimate state functions and are designed to promote  
 5391 public safety.  
 5392 Section 70. Section 633.48, Florida Statutes, is  
 5393 transferred, renumbered as section 633.434, Florida Statutes,  
 5394 and amended to read:  
 5395 633.434 ~~633.48~~ Superintendent of college.—The division may  
 5396 employ a superintendent for the Florida State Fire College, who  
 5397 shall be especially trained and qualified in firefighting, fire  
 5398 prevention and fire experimental work, and may employ on the  
 5399 recommendations of said superintendent such other instructors,  
 5400 experimental helpers and laborers as may be necessary to the  
 5401 proper conduct of said institution; and may proceed with the  
 5402 erection and detailed operation of said institution under ss.  
 5403 633.428-633.444 ~~633.43~~ ~~633.49~~.

5460 and amended to read:  
 5461 633.444 ~~633.50~~ Division powers and duties; Florida State  
 5462 Fire College. —  
 5463 (1) The division, in performing its duties related to the  
 5464 Florida State Fire College, specified in this part ~~ss. 633.43-~~  
 5465 ~~633.49~~, shall:  
 5466 (a) Enter into agreements with public or private school  
 5467 districts, community colleges, junior colleges, or state  
 5468 universities to carry out its duties and responsibilities.  
 5469 (b) Review and approve budget requests for the fire  
 5470 college educational program.  
 5471 (c) Prepare the legislative budget request for the Florida  
 5472 State Fire College education program. The superintendent is  
 5473 responsible for all expenditures pursuant to appropriations.  
 5474 (d) Implement procedures to obtain appropriate entitlement  
 5475 funds from federal and state grants to supplement the annual  
 5476 legislative appropriation. Such funds must be used expressly for  
 5477 the fire college educational programs.  
 5478 (e) Develop a staffing and funding formula for the Florida  
 5479 State Fire College. The formula shall include differential  
 5480 funding levels for various types of programs, shall be based on  
 5481 the number of full-time equivalent students and information  
 5482 obtained from scheduled attendance counts taken the first day of  
 5483 each program, and shall provide the basis for the legislative  
 5484 budget request. As used in this section, a full-time equivalent  
 5485 student is equal to a minimum of 900 hours in a technical  
 5486 certificate program and 400 hours in a degree-seeking program.  
 5487 The funding formula shall be as prescribed pursuant to s.

1011.62, shall include procedures to document daily attendance,  
 and shall require that attendance records be retained for audit  
 purposes.  
 (f) Approve and register in an electronic database  
designated by the division an education or training provider  
before the education or training provider is authorized to offer  
any course to fulfill any education or training requirement  
under this chapter. The division must establish criteria, by  
rule, for the approval of such education or training providers.  
Only approved and registered education or training providers are  
eligible to provide instruction or training that will be  
recognized by the division in order to fulfill any education or  
training requirement under this chapter.  
 (g) Recognize only courses offered by approved and  
registered training or education providers as fulfilling the  
education or training requirements under this chapter.  
 (2) Funds generated by the formula per full-time  
 equivalent student may not exceed the level of state funding per  
 full-time equivalent student generated through the Florida  
 Education Finance Program or the State Community College Program  
 Fund for students enrolled in comparable education programs  
 provided by public school districts and community colleges.  
 Funds appropriated for education and operational costs shall be  
 deposited in the Insurance Regulatory Trust Fund to be used  
 solely for purposes specified in s. 633.436 ~~633.464~~ and may not  
 be transferred to any other budget entity for purposes other  
 than education.  
 Section 76, Part V of chapter 633, Florida Statutes,

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5488 consisting of sections 633.502, 633.504, 633.506, 633.508,  
 5489 633.512, 633.5141, 633.516, 633.518, 633.522, 633.526, 633.528,  
 5490 633.532, 633.5341, and 633.536, is created and entitled "Florida  
 5491 Firefighters Occupational Safety and Health Act."  
 5492 Section 77. Section 633.801, Florida Statutes, is  
 5493 transferred, renumbered as section 633.502, Florida Statutes,  
 5494 and amended to read:  
 5495 633.502 ~~633.801~~ Short title.—Sections 633.502-633.536,  
 5496 ~~633.801-633.821~~ may be cited as the "Florida Firefighters  
 5497 Occupational Safety and Health Act."  
 5498 Section 78. Section 633.802, Florida Statutes, is  
 5499 transferred, renumbered as section 633.504, Florida Statutes,  
 5500 and amended to read:  
 5501 633.504 ~~633.802~~ Definitions.—Unless the context clearly  
 5502 requires otherwise, the following definitions shall apply to  
 5503 this part ~~633.801-633.821~~:  
 5504 (1) "Firefighter employee" means any firefighter,  
 5505 volunteer firefighter, or individual providing support services,  
 5506 who is ~~person~~ engaged in any employment, public or private, ~~as a~~  
 5507 ~~firefighter~~ under any appointment or contract of hire or  
 5508 apprenticeship, express or implied, oral or written, whether  
 5509 lawfully or unlawfully employed, responding to or assisting with  
 5510 fire or medical emergencies, whether or not ~~the firefighter is~~  
 5511 on duty, except those appointed under s. 590.02(1) (d).  
 5512 (2) "Firefighter employer" means the state and all  
 5513 political subdivisions of this state, all public and quasi-  
 5514 public corporations in this state, and every person carrying on  
 5515 any employment for this state, political subdivisions of this

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5516 state, and public and quasi-public corporations in this state  
 5517 which employs firefighter employees ~~firefighters~~, except those  
 5518 appointed under s. 590.02(1) (d).  
 5519 (3) "Firefighter employment" or "employment" means any  
 5520 service performed by a firefighter employee for the firefighter  
 5521 employer.  
 5522 (4) "Firefighter place of employment" or "place of  
 5523 employment" means the physical location at which the firefighter  
 5524 employee is employed or deployed.  
 5525 Section 79. Section 633.803, Florida Statutes, is  
 5526 transferred, renumbered as section 633.506, and amended to read:  
 5527 633.506 ~~633.803~~ Legislative intent.—It is the intent of  
 5528 the Legislature to enhance firefighter occupational safety and  
 5529 health in the state through the implementation and maintenance  
 5530 of policies, procedures, practices, rules, and standards that  
 5531 reduce the incidence of firefighter employee accidents,  
 5532 firefighter employee occupational diseases, and firefighter  
 5533 employee fatalities compensable under chapter 440 or otherwise.  
 5534 The Legislature further intends that the division develop a  
 5535 means by which the division can identify individual firefighter  
 5536 employers with a high frequency or severity of work-related  
 5537 injuries, conduct safety inspections of those firefighter  
 5538 employers, and assist those firefighter employers in the  
 5539 development and implementation of firefighter employee safety  
 5540 and health programs. In addition, it is the intent of the  
 5541 Legislature that the division administer and enforce the  
 5542 provisions of this part ~~633.801-633.821~~; provide assistance  
 5543 to firefighter employers, firefighter employees, and insurers;



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5572 (3) With respect to 29 C.F.R. s. 1910.134(g) (4), the two

5573 individuals located outside the immediately dangerous to life

5574 and health atmosphere may be assigned to an additional role,

5575 such as incident commander, pumper operator, engineer, or

5576 driver, so long as such individual is able to immediately

5577 perform assistance or rescue activities without jeopardizing the

5578 safety or health of any firefighter employee working at an

5579 incident. ~~Also with respect to 29 C.F.R. s. 1910.134(g) (4):~~

5580 ~~(e) Each county, municipality, and special district shall~~

5581 ~~implement such provision by April 1, 2002, except as provided in~~

5582 ~~paragraphs (b) and (e).~~

5583 ~~(b) If any county, municipality, or special district is~~

5584 ~~unable to implement such provision by April 1, 2002, without~~

5585 ~~adding additional personnel to its firefighting staff or~~

5586 ~~expending significant additional funds, such county,~~

5587 ~~municipality, or special district shall have an additional 6~~

5588 ~~months within which to implement such provision. Such county,~~

5589 ~~municipality, or special district shall notify the division that~~

5590 ~~the 6-month extension to implement such provision is in effect~~

5591 ~~in such county, municipality, or special district within 30 days~~

5592 ~~after its decision to extend the time for the additional 6~~

5593 ~~months. The decision to extend the time for implementation shall~~

5594 ~~be made prior to April 1, 2002.~~

5595 ~~(e) If, after the extension granted in paragraph (b), the~~

5596 ~~county, municipality, or special district, after having worked~~

5597 ~~with and cooperated fully with the division and the Firefighters~~

5598 ~~Employment Standards and Training Council, is still unable to~~

5599 ~~implement such provisions without adding additional personnel to~~

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5544 and enforce the policies, rules, and standards set forth in this

5545 part ~~or 633.801-633.821.~~

5546 Section 80. Section 633.821, Florida Statutes, is

5547 transferred and renumbered as subsections (1), (2), (3), (4),

5548 (5), and (6) of section 633.508, Florida Statutes, and

5549 subsections (2), (3), (5), and (6) of that section are amended,

5550 and section 633.808, Florida Statutes, is transferred and

5551 renumbered as subsection (7) of that section and amended, to

5552 read:

5553 633.508 633.821 Workplace safety; rulemaking authority.-

5554 (1) The division shall assist in making the firefighter

5555 employee place of employment a safer place to work and

5556 decreasing the frequency and severity of on-the-job injuries in

5557 such workplace.

5558 (2) The division shall have the authority to adopt rules

5559 for the purpose of ensuring safe working conditions for all

5560 firefighter employees by authorizing the enforcement of

5561 effective standards, by assisting and encouraging firefighter

5562 employers to maintain safe working conditions, and by providing

5563 for education and training in the field of safety. Specifically,

5564 the division may by rule adopt the most current edition of all

5565 or any part of subparts C through T and subpart Z of 29 C.F.R.

5566 s. 1910, ~~as revised April 8, 1999, the National Fire Protection~~

5567 ~~Association, Inc., Standard 1500, paragraph 5-7 (Personal Alert~~

5568 ~~Safety System) (1992 edition); the National Fire Protection~~

5569 ~~Association, Inc., Publication 1403, Standard on Live Fire~~

5570 ~~Training Evolutions (latest edition), as limited by subsection~~

5571 ~~(6); and ANSI A 10.4-1999.~~

CODING: Words ~~strike~~ are deletions; words underlined are additions.

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5600 ~~its firefighting staff or expending significant additional~~  
 5601 ~~funds, such municipality, county, or special district shall be~~  
 5602 ~~exempt from the requirements of 29 C.F.R. s. 1910.134(g)(4)-~~  
 5603 ~~however, each year thereafter the division shall review each~~  
 5604 ~~such county, municipality, or special district to determine if~~  
 5605 ~~such county, municipality, or special district has the ability~~  
 5606 ~~to implement such provision without adding additional personnel~~  
 5607 ~~to its firefighting staff or expending significant additional~~  
 5608 ~~funds. If the division determines that any county, municipality~~  
 5609 ~~or special district has the ability to implement such provision~~  
 5610 ~~without adding additional personnel to its firefighting staff or~~  
 5611 ~~expending significant additional funds, the division shall~~  
 5612 ~~require such county, municipality, or special district to~~  
 5613 ~~implement such provision. Such requirement by the division under~~  
 5614 ~~this paragraph constitutes final agency action subject to~~  
 5615 ~~chapter 120.~~  
 5616 (4) The provisions of chapter 440 that pertain to  
 5617 workplace safety apply to the division.  
 5618 (5) The division may adopt any rule necessary to  
 5619 implement, interpret, and make specific the provisions of this  
 5620 section, provided the division may not adopt by rule any other  
 5621 standard or standards of the Occupational Safety and Health  
 5622 Administration or the National Fire Protection Association  
 5623 relating solely to this part ss. 633.601-633.621 and firefighter  
 5624 employment safety without specific legislative authority.  
 5625 (6) (a) The division shall adopt rules for live fire  
 5626 training that all firefighter employees ~~firefighters~~ subject to  
 5627 this chapter must complete. The division shall also adopt rules

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5628 for a training and certification process for live fire training  
 5629 instructors.  
 5630 (b) Such rules for training shall include:  
 5631 1. Sections of the most current edition of the National  
 5632 Fire Protection Association, Inc., Publication 1402, Guide to  
 5633 Building Fire Service Training Centers, relating to establishing  
 5634 policies and procedures for effective use of such permanent  
 5635 facilities or structures.  
 5636 2. Sections of the most current edition of the National  
 5637 Fire Protection Association, Inc., Publication 1403, Standard on  
 5638 Live Fire Training Evolutions, excluding, however:  
 5639 a. Any chapter entitled "Referenced Publications."  
 5640 b. References to the National Fire Protection Association,  
 5641 Inc., Publication 1975, Station Uniform.  
 5642 c. Provisions of the National Fire Protection Association,  
 5643 Inc., Publication 1001, not adopted under rule 69A-37 ~~or any~~  
 5644 ~~references to such publication in the National Fire Protection~~  
 5645 ~~Association, Inc., Publication 1975.~~  
 5646 d. Any reference to an authority having jurisdiction in  
 5647 the National Fire Protection Association, Inc., Publication  
 5648 1403, defined as the organization, office, or individual  
 5649 responsible for approving equipment, materials, installations,  
 5650 and procedures.  
 5651 3. A 40-hour training program for live fire training  
 5652 instructors, including:  
 5653 a. Live fire instructional techniques.  
 5654 b. Training safety in acquired or permanent facilities or  
 5655 props.



5656 c. Personnel safety.

5657 d. Exterior props, including, but not limited to, liquid

5658 petroleum gas, other liquid fuels, and similar props.

5659 ~~(e) The rules, excluding those pertaining to live fire~~

5660 ~~training instructor certification, shall take effect no later~~

5661 ~~than January 1, 2006.~~

5662 (c)(4) Each live fire training instructor is required to

5663 be a state certified fire safety instructor. All live fire

5664 training ~~commenced on and after January 1, 2007,~~ must be

5665 conducted by a certified live fire training instructor.

5666 (d)(4) This subsection does not apply to wildland or

5667 prescribed live fire training exercises sanctioned by the

5668 Florida Forest Service of the Department of Agriculture and

5669 Consumer Services or the National Wildfire Coordinating Group.

5670 ~~633.808 Division authority.~~

5671 (7) The division shall:

5672 (a)(4) Investigate and prescribe by rule what safety

5673 devices, safeguards, or other means of protection must be

5674 adopted for the prevention of accidents and injuries in every

5675 firefighter employee place of employment or at any fire scene;

5676 determine what suitable devices, safeguards, or other means of

5677 protection for the prevention of occupational diseases must be

5678 adopted or followed in any or all such firefighter places of

5679 employment or at any emergency fire scene; and adopt reasonable

5680 rules for the prevention of accidents, the safety, protection,

5681 and security of firefighter employees engaged in interior

5682 firefighting, and the prevention of occupational diseases.

5683 (b)(4) Ascertain, fix, and order such reasonable standards

5684 and rules for the construction, repair, and maintenance of

5685 firefighter employee places of employment as shall render them

5686 safe. Such rules and standards shall be adopted in accordance

5687 with chapter 120.

5688 ~~(3) Assist firefighter employees in the development and~~

5689 ~~implementation of firefighter employee safety training programs~~

5690 ~~by contracting with professional safety organizations.~~

5691 (c)(4) Adopt rules prescribing recordkeeping

5692 responsibilities for firefighter employers, which may include

5693 maintaining a log and summary of occupational injuries,

5694 diseases, and illnesses, for producing on request a notice of

5695 injury and firefighter employee accident investigation records,

5696 and prescribing a retention schedule for such records.

5697 Section 81. Section 633.817, Florida Statutes, is

5698 transferred, renumbered as section 633.512, Florida Statutes,

5699 and amended to read:

5700 633.512 633.817 Compliance.—Failure of a firefighter

5701 employer or an insurer to comply with this part ~~633.801~~

5702 ~~633.821~~, or with any rules adopted under this part ~~633.801~~

5703 ~~633.821~~, constitutes grounds for the division to seek remedies,

5704 including injunctive relief, by making appropriate filings with

5705 the circuit court.

5706 Section 82. Section 633.805, Florida Statutes, is

5707 transferred and renumbered as section 633.5141, Florida

5708 Statutes.

5709 Section 83. Section 633.806, Florida Statutes, is

5710 transferred, renumbered as subsections (1) and (2) of section

5711 633.516, Florida Statutes, and amended, and section 633.815,

5712 Florida Statutes, is transferred, renumbered as subsection (3)

5713 of that section, and amended, to read:

5714 633.516 ~~633.006~~ Studies, investigations, inspections, or

5715 inquiries by the division; refusal to admit; penalty. -

5716 (1) The division shall make studies ~~and~~ investigations,

5717 inspections, or inquiries, with respect to compliance with this

5718 part or any rules authorized under this part ~~safety provisions~~

5719 and the causes of firefighter employee injuries, illnesses,

5720 safety based complaints, or Line of Duty Deaths (LODD) as

5721 defined in rule, in firefighter employee places of employment

5722 and shall make such recommendations to the Legislature and

5723 firefighter employers and insurers as the division considers

5724 proper ~~to prevent or reduce future occurrences the best means~~

5725 ~~of preventing firefighter injuries~~. In making such studies, ~~and~~

5726 investigations, inspections, or inquiries, the division may

5727 cooperate with any agency of the United States charged with the

5728 duty of enforcing any law securing safety against injury in any

5729 place of firefighter employment covered by this part ~~or~~

5730 ~~633.001-633.021~~ or any agency or department of the state engaged

5731 in enforcing any law to ensure safety for firefighter employees.

5732 (2) The division by rule may adopt procedures for

5733 conducting investigations, inspections, or inquiries, of

5734 firefighter employers under this part ~~or~~ ~~633.001-633.021~~.

5735 ~~633.015-Refusal to admit; penalty.~~

5736 (3) The division and authorized representatives of the

5737 division may enter and inspect any firefighter employee's place

5738 of employment at any reasonable time for the purpose of

5739 investigating compliance with this part ~~or~~ ~~633.001-633.021~~ and

5740 conducting inspections for the proper enforcement of this part

5741 ~~or~~ ~~633.001-633.021~~. A firefighter employer who refuses to admit

5742 any member of the division or authorized representative of the

5743 division to any place of employment or to allow investigation

5744 and inspection pursuant to this section commits a misdemeanor of

5745 the second degree, punishable as provided in s. 775.082 or s.

5746 775.083.

5747 Section 84. Section 633.807, Florida Statutes, is

5748 transferred, renumbered as section 633.518, Florida Statutes,

5749 and amended to read:

5750 633.518 ~~633.007~~ Safety; firefighter employer

5751 responsibilities.—Every firefighter employer shall furnish and

5752 use safety devices and safeguards, adopt and use methods and

5753 processes reasonably adequate to render such an employment and

5754 place of employment safe, and do every other thing reasonably

5755 necessary to protect the lives, health, and safety of such

5756 firefighter employees. As used in this section, the terms "safe"

5757 and "safety," as applied to any employment or place of

5758 ~~firefighter~~ employment, mean such freedom from danger as is

5759 reasonably necessary for the protection of the lives, health,

5760 and safety of firefighter employees, including conditions and

5761 methods of sanitation and hygiene. Safety devices and safeguards

5762 required to be furnished by the firefighter employer by this

5763 section or by the division under authority of this section shall

5764 not include personal apparel and protective devices that replace

5765 personal apparel normally worn by firefighter employees during

5766 regular working hours.

5767 Section 85. Section 633.809, Florida Statutes, is

5768 transferred, renumbered as subsection (1) of section 633.522,  
 5769 Florida Statutes, and amended, section 633.810, Florida  
 5770 Statutes, is transferred and renumbered as subsections (2), (3),  
 5771 (4), and (5) of that section, and section 633.813, Florida  
 5772 Statutes, is transferred, renumbered as subsection (6) of that  
 5773 section, and amended, to read:  
 5774 633.522 633.809 Firefighter employers; ~~whose firefighters~~  
 5775 ~~employees have a~~ high frequency of work-related injuries;  
 5776 corrective plans; workplace safety committees and coordinators. -  
 5777 (1) The division shall develop a means to by which the  
 5778 ~~division may~~ identify individual firefighter employers with  
 5779 ~~whose firefighter employees have a high frequency of severity of~~  
 5780 ~~firefighter employee work-related injuries. The division shall~~  
 5781 ~~carry out safety inspections of the facilities and operations of~~  
 5782 ~~these firefighter employers in order to assist them in reducing~~  
 5783 ~~the frequency and severity of work-related injuries. The~~  
 5784 ~~division shall develop safety and health programs for those~~  
 5785 ~~firefighter employers. Insurers shall distribute such safety and~~  
 5786 ~~health programs to the firefighter employers so identified by~~  
 5787 ~~the division. These firefighter employers identified by the~~  
 5788 ~~division as having a high frequency of severity of work-related~~  
 5789 ~~injuries shall implement a safety and health program developed~~  
 5790 ~~by the division. The division shall conduct carry out safety~~  
 5791 inspections of those firefighter employers so identified to  
 5792 ensure compliance with this part or the division's rules and  
 5793 make recommendations based upon current the safety and health  
 5794 practices ~~program~~ and to assist such firefighter employers in  
 5795 reducing the number of work-related injuries. The division may

5796 not assess penalties as a result of such inspections, ~~except as~~  
 5797 ~~provided by s. 633.813.~~ Copies of any report made as the result  
 5798 of such an inspection shall be provided to the firefighter  
 5799 employer and its insurer. Firefighter employers shall may submit  
 5800 a plan for the correction of any noncompliance issues ~~their own~~  
 5801 ~~safety and health programs~~ to the division for approval in  
 5802 accordance with division rule ~~list of using the safety and~~  
 5803 ~~health program developed by the division.~~ The division shall  
 5804 promptly review the plan ~~program~~ submitted and approve or  
 5805 disapprove the plan ~~program~~ within 60 days or such plan ~~program~~  
 5806 shall be deemed approved. Upon approval by the division, the  
 5807 plan ~~program~~ shall be implemented by the firefighter employer.  
 5808 If the plan ~~program~~ is not submitted, does not provide  
 5809 corrective actions for all deficiencies, is not complete, or is  
 5810 not implemented, the fire service provider shall be subject to  
 5811 the provisions of s. 633.526 ~~approved or if a program is not~~  
 5812 ~~submitted, the firefighter employer shall implement the program~~  
 5813 ~~developed by the division. The division shall adopt rules~~  
 5814 ~~setting forth the criteria for safety and health programs, as~~  
 5815 ~~such rules relate to this section.~~  
 5816 ~~633.810 Workplace safety committees and safety~~  
 5817 ~~committees.~~  
 5818 (2) ~~(4)~~ In order to promote health and safety in  
 5819 firefighter employee places of employment in this state:  
 5820 (a) Each firefighter employer of 20 or more firefighter  
 5821 employees shall establish and administer a workplace safety  
 5822 committee in accordance with rules adopted under this section.  
 5823 (b) Each firefighter employer of fewer than 20 firefighter

5824 employees identified by the division as having high frequency or  
 5825 high severity of work-related injuries shall establish and  
 5826 administer a workplace safety committee or designate a workplace  
 5827 safety coordinator who shall establish and administer workplace  
 5828 safety activities in accordance with rules adopted under this  
 5829 section.  
 5830 ~~(3)(a)~~ The division shall adopt rules:  
 5831 (a) Prescribing the membership of the workplace safety  
 5832 committees so as to ensure an equal number of firefighter  
 5833 employee representatives who are volunteers or are elected by  
 5834 their peers and firefighter employer representatives, and  
 5835 specifying the frequency of meetings.  
 5836 (b) Requiring firefighter employers to make adequate  
 5837 records of each meeting and to file and to maintain the records  
 5838 subject to inspection by the division.  
 5839 (c) Prescribing the duties and functions of the workplace  
 5840 safety committee and workplace safety coordinator, which  
 5841 include, but are not limited to:  
 5842 1. Establishing procedures for workplace safety  
 5843 inspections by the committee.  
 5844 2. Establishing procedures for investigating all workplace  
 5845 accidents, safety-related incidents, illnesses, and deaths.  
 5846 3. Evaluating accident prevention and illness prevention  
 5847 programs.  
 5848 4. Prescribing guidelines for the training of safety  
 5849 committee members.  
 5850 ~~(4)(a)~~ The composition, selection, and function of  
 5851 workplace safety committees shall be a mandatory topic of

5852 negotiations with any certified collective bargaining agent for  
 5853 firefighter employers that operate under a collective bargaining  
 5854 agreement. Firefighter employers that operate under a collective  
 5855 bargaining agreement that contains provisions regulating the  
 5856 formation and operation of workplace safety committees that meet  
 5857 or exceed the minimum requirements contained in this section, or  
 5858 firefighter employers who otherwise have existing workplace  
 5859 safety committees that meet or exceed the minimum requirements  
 5860 established by this section, are in compliance with this  
 5861 section.  
 5862 ~~(5)(a)~~ Firefighter employees shall be compensated their  
 5863 regular hourly wage while engaged in workplace safety committee  
 5864 or workplace safety coordinator training, meetings, or other  
 5865 duties prescribed under this section.  
 5866 ~~633.813 Failure to implement a safety and health program~~  
 5867 ~~cancellations.~~  
 5868 (6) If a firefighter employer ~~that is found by the~~  
 5869 ~~division to have a high frequency or severity of work-related~~  
 5870 ~~injuries~~ fails to implement a corrective plan ~~safety and health~~  
 5871 ~~program~~, the insurer or self-insurer's fund that is providing  
 5872 coverage for the firefighter employer may cancel the contract  
 5873 for insurance with the firefighter employer. In the alternative,  
 5874 the insurer or fund may terminate any discount or deviation  
 5875 granted to the firefighter employer for the remainder of the  
 5876 term of the policy. If the contract is canceled or the discount  
 5877 or deviation is terminated, the insurer shall make such reports  
 5878 as are required by law.  
 5879 Section 86. Section 633.811, Florida Statutes, is

shall be held in the county in which the violation, omission, failure, or refusal is alleged to have occurred, unless otherwise agreed to by the firefighter employer and authorized by the division. All penalties assessed and collected under this section shall be deposited in the Insurance Regulatory Trust Fund.

Section 87. Section 633.812, Florida Statutes, is transferred and renumbered as section 633.528, Florida Statutes, and subsections (2) and (3) of that section are amended, to read:

633.528 ~~633.812~~ Division cooperation with Federal Government; exemption from requirements for private firefighter employers. —

(1) The division shall cooperate with the Federal Government so that duplicate inspections will be avoided while at the same time ensuring safe firefighter employee places of employment for the citizens of this state.

(2) ~~Except as provided in this section~~ A private firefighter employer is not subject to the requirements set forth in part IV and this part ~~of the division~~ if the private firefighter employer meets the requirements of this part and:

(a) The private firefighter employer is subject to the federal regulations in 29 C.F.R. ss. 1910 and 1926.

(b) The private firefighter employer has adopted and implemented a written safety program that conforms to the requirements of 29 C.F.R. ss. 1910 and 1926.

~~(c) A private firefighter employer with 20 or more full-time firefighter employees shall include provisions for a safety~~

transferred, renumbered as section 633.526, Florida Statutes, and amended to read:

633.526 ~~633.811~~ Firefighter employer penalties.—If any firefighter employer violates or fails or refuses to comply with this part ~~633.801-633.821~~, or with any rule adopted by the division under such sections in accordance with chapter 120 for the prevention of injuries, accidents, or occupational diseases or with any lawful order of the division in connection with this part ~~633.801-633.821~~, or fails or refuses to furnish or adopt any safety device, safeguard, or other means of protection prescribed by division rule under this part ~~633.801-633.821~~ for the prevention of accidents or occupational diseases, the division may:

(1) Issue an administrative cease and desist order, enforceable in the circuit court in the jurisdiction where the violation is occurring or has occurred;

(2) Assess an administrative fine against a firefighter employer of not less than \$100 or more than \$1,000 for each violation and each day a violation is committed; and

(3) Assess against the firefighter employer a civil penalty of not less than \$100 nor more than \$5,000 for each day

the violation, omission, failure, or refusal continues after the firefighter employer has been given written notice of such violation, omission, failure, or refusal. The total penalty for each violation shall not exceed \$50,000. The division shall adopt rules requiring penalties commensurate with the frequency or severity of safety violations. Hearings requested under this

provision shall be conducted in Tallahassee, Florida. ~~A hearing~~

5936 ~~committee in the safety program. The safety committee shall~~  
 5937 ~~include firefighter employee representation and shall meet at~~  
 5938 ~~least once each calendar quarter. The private firefighter~~  
 5939 ~~employer shall make adequate records of each meeting and~~  
 5940 ~~maintain the records subject to inspections under subsection~~  
 5941 ~~(2). The safety committee shall, if appropriate, make~~  
 5942 ~~recommendations regarding improvements to the safety program and~~  
 5943 ~~corrections of hazards affecting workplace safety.~~

5944 (c) ~~(e)~~ The private firefighter employer provides the  
 5945 division with a written statement that certifies compliance with  
 5946 this subsection.  
 5947 (3) The division may enter at any reasonable time any  
 5948 place of private firefighter employment for the purpose of  
 5949 verifying the accuracy of the written certification. If the  
 5950 division determines that the private firefighter employer has  
 5951 not complied with the requirements of subsection (2), the  
 5952 private firefighter employer shall be subject to the rules of  
 5953 the division until the private firefighter employer complies  
 5954 with subsection (2), which must be verified by a reinspection by  
 5955 the division ~~and certifies that fact to the division.~~

5956 (4) This section shall not restrict the division's  
 5957 performance of any duties pursuant to a written contract between  
 5958 the division and the federal Occupational Safety and Health  
 5959 Administration.  
 5960 Section 88. Section 633.816, Florida Statutes, is  
 5961 transferred, renumbered as section 633.532, Florida Statutes,  
 5962 and amended to read:  
 5963 633.532 ~~633.816~~ Firefighter employee rights and

5964 responsibilities.-  
 5965 (1) Each firefighter employee of a firefighter employer  
 5966 covered under this part ~~633.801-633.821~~ shall comply with  
 5967 rules adopted by the division and with reasonable workplace  
 5968 safety and health standards, rules, policies, procedures, and  
 5969 work practices established by the firefighter employer and the  
 5970 workplace safety committee. A firefighter employee who knowingly  
 5971 fails to comply with this subsection may be disciplined or  
 5972 discharged by the firefighter employer.  
 5973 (2) A firefighter employer may not discharge, threaten to  
 5974 discharge, cause to be discharged, intimidate, coerce, otherwise  
 5975 discipline, or in any manner discriminate against a firefighter  
 5976 employee for any of the following reasons:  
 5977 (a) The firefighter employee has testified or is about to  
 5978 testify, on her or his own behalf or on behalf of others, in any  
 5979 proceeding instituted under this part ~~633.801-633.821~~;  
 5980 (b) The firefighter employee has exercised any other right  
 5981 afforded under this part ~~633.801-633.821~~; or  
 5982 (c) The firefighter employee is engaged in activities  
 5983 relating to the workplace safety committee.  
 5984 (3) No pay, position, seniority, or other benefit may be  
 5985 lost for exercising any right under, or for seeking compliance  
 5986 with any requirement of, this part ~~633.801-633.821~~.  
 5987 Section 89. Section 633.818, Florida Statutes, is  
 5988 transferred, renumbered as subsection (1) of section 633.5341,  
 5989 Florida Statutes, and amended, and section 633.819, Florida  
 5990 Statutes, is transferred and renumbered as subsection (2) of  
 5991 that section, to read:



5992 633.5341 ~~633.814~~ False, fictitious, or fraudulent acts, statements, and representations prohibited; penalty; statute of limitations; ~~to impose.~~ -

5993 (1) A firefighter employer who knowingly and willfully falsifies or conceals a material fact, who makes a false, fictitious, or fraudulent statement or representation, or who makes or uses any false document knowing the document to contain any false, fictitious, or fraudulent entry or statement to an insurer of workers' compensation insurance under this part ~~633.801-633.821~~ commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

6001 ~~633.819~~ ~~Matters within jurisdiction of the division~~

6002 ~~false, fictitious, or fraudulent acts, statements, and representations prohibited; penalty; statute of limitations.~~

6003 (2) A person may not, in any matter within the jurisdiction of the division, knowingly and willfully falsify or conceal a material fact; make any false, fictitious, or fraudulent statement or representation; or make or use any false document, knowing the same to contain any false, fictitious, or fraudulent statement or entry. A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. The statute of limitations for prosecution of an act committed in violation of this section is 5 years after the date the act was committed or, if not discovered within 30 days after the act was committed, 5 years after the date the act was discovered.

6014 Section 90. Section 633.814, Florida Statutes, is transferred, renumbered as section 633.536, Florida Statutes,

6020 and amended, to read:

6021 633.536 ~~633.814~~ Expenses of administration.—The amounts that are needed to administer this part ~~633.801-633.821~~ shall be disbursed from the Insurance Regulatory Trust Fund.

6023 Section 91. Section 554.103, Florida Statutes, is amended to read:

6025 554.103 Boiler code.—The department shall adopt by rule a State Boiler Code for the safe ~~construction~~ installation, inspection, maintenance, and repair of boilers in this state. The rules adopted shall be based upon and shall at all times follow generally accepted nationwide engineering standards, formulas, and practices pertaining to boiler construction and safety.

6031 (1) New boilers installed or imported into this state shall be constructed to the most current mandatory boiler code, ~~the department shall adopt an existing code for new construction and installation~~ known as the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers, including all amendments, code cases, and interpretations approved thereto by the Council on Codes and Standards of A.S.M.E. ~~The department may adopt amendments and interpretations to the A.S.M.E. Boiler and Pressure Vessel Code approved by the A.S.M.E. Council on Codes and Standards subsequent to the adoption of the State Boiler Code, and when so adopted, such amendments and interpretations shall become a part of the State Boiler Code.~~

6041 (2) The installer ~~owner~~ of any boiler placed in use in this state after July 1, 2013 ~~October 1, 1987~~, shall submit the A.S.M.E. manufacturer's data report on such boiler to the chief

6076 or local government, a law enforcement officer employed by the  
 6077 Federal Government, or any other local, state, or Federal  
 6078 Government employee solely based on the fact that the individual  
 6079 has been exposed to toxic chemicals or suffered injury or  
 6080 disease as a result of the individual's lawful duties arising  
 6081 out of the commission of a violation of chapter 893 by another  
 6082 person. This section does not apply to any person who commits an  
 6083 offense under chapter 893. This section does not prohibit an  
 6084 insurer from canceling or nonrenewing an insurance policy or  
 6085 certificate, as permitted under the applicable state insurance  
 6086 code, based on an act or practice of the policyholder or  
 6087 certificateholder that constitutes fraud or intentional  
 6088 misrepresentation of material fact by the policyholder or  
 6089 certificateholder.  
 6090 Section 93. Section 791.012, Florida Statutes, is amended  
 6091 to read:  
 6092 791.012 Minimum fireworks safety standards.—The outdoor  
 6093 display of fireworks in this state shall be governed by the  
 6094 National Fire Protection Association (NFPA) 1123, Code for  
 6095 Fireworks Display, as adopted in the Florida Fire Prevention  
 6096 Code ~~1995 Edition, approved by the American National Standards~~  
 6097 ~~Institute~~. Any state, county, or municipal law, rule, or  
 6098 ordinance may provide for more stringent regulations for the  
 6099 outdoor display of fireworks, but in no event may any such law,  
 6100 rule, or ordinance provide for less stringent regulations for  
 6101 the outdoor display of fireworks. The division shall promulgate  
 6102 rules to carry out the provisions of this section. The Code for  
 6103 Fireworks Display shall not govern the display of any fireworks

6048 inspector prior to the boiler being placed into operation ~~not~~  
 6049 ~~more than 90 days following the in-service date of the boiler.~~  
 6050 (3) The maximum allowable working pressure of a boiler  
 6051 carrying the A.S.M.E. code symbol shall be determined by the  
 6052 applicable sections of the code under which it was constructed  
 6053 and stamped. Subject to the concurrence of the chief inspector,  
 6054 such boiler may be rerated in accordance with the standards of  
 6055 the State Boiler Code.  
 6056 (4) The maximum allowable working pressure of a boiler  
 6057 which does not carry the A.S.M.E. code symbol shall be computed  
 6058 in accordance with the standards of the State Boiler Code.  
 6059 (5) Nothing in ss. 554.1011-554.115 shall be construed to  
 6060 in any way prevent the use, sale, or reinstallation of a boiler  
 6061 if such boiler has been made to conform to the applicable  
 6062 provisions of the State Boiler Code governing existing  
 6063 installations and if, upon inspection, the boiler has been found  
 6064 to be in a safe condition.  
 6065 Section 92. Section 627.4107, Florida Statutes, is amended  
 6066 to read:  
 6067 627.4107 Government employees exposed to toxic drug  
 6068 chemicals; cancellation of life or health policy or certificate  
 6069 prohibited.—No life or health insurer may cancel or nonrenew a  
 6070 life or health insurance policy or certificate of insurance  
 6071 providing coverage to a state or local law enforcement officer  
 6072 as defined in s. 943.10, firefighter as defined in s. 633.102  
 6073 ~~633.30~~, volunteer firefighter as defined in 633.102, emergency  
 6074 medical technician as defined in s. 401.23, or paramedic as  
 6075 defined in s. 401.23, a volunteer firefighter engaged by state



6132 duplicate in writing and shall pay a fee of \$5.  
 6133 Section 95. Sections 633.024, 633.0245, 633.30, 633.445,  
 6134 633.524, 633.804, and 633.820, Florida Statutes, are repealed.  
 6135 Section 96. Subsection (1) of section 112.1815, Florida  
 6136 Statutes, is amended to read:  
 6137 112.1815 Firefighters, paramedics, emergency medical  
 6138 technicians, and law enforcement officers; special provisions  
 6139 for employment-related accidents and injuries.—  
 6140 (1) The term "first responder" as used in this section  
 6141 means a law enforcement officer as defined in s. 943.10, a  
 6142 firefighter as defined in s. 633.102 ~~633.30~~, or an emergency  
 6143 medical technician or paramedic as defined in s. 401.23 employed  
 6144 by state or local government. A volunteer law enforcement  
 6145 officer, firefighter, or emergency medical technician or  
 6146 paramedic engaged by the state or a local government is also  
 6147 considered a first responder of the state or local government  
 6148 for purposes of this section.  
 6149 Section 97. Paragraph (b) of subsection (1) of section  
 6150 112.191, Florida Statutes, is amended to read:  
 6151 112.191 Firefighters; death benefits.—  
 6152 (1) Whenever used in this act:  
 6153 (b) The term "firefighter" means any full-time duly  
 6154 employed uniformed firefighter employed by an employer, whose  
 6155 primary duty is the prevention and extinguishing of fires, the  
 6156 protection of life and property therefrom, the enforcement of  
 6157 municipal, county, and state fire prevention codes, as well as  
 6158 the enforcement of any law pertaining to the prevention and  
 6159 control of fires, who is certified pursuant to s. 633.408

6104 on private, residential property and shall not govern the  
 6105 display of those items included under s. 791.01(4)(b) and (c)  
 6106 and authorized for sale thereunder.  
 6107 Section 94. Subsection (1) and paragraph (a) of subsection  
 6108 (3) of section 791.015, Florida Statutes, are amended to read:  
 6109 791.015 Registration of manufacturers, distributors,  
 6110 wholesalers, and retailers of sparklers.—  
 6111 (1) REGISTRATION REQUIREMENTS.—Any manufacturer,  
 6112 distributor, wholesaler, retailer, or seasonal retailer of  
 6113 sparklers who wishes to do business in this state or to  
 6114 otherwise sell, ship, or assign for sale its products in this  
 6115 state must register annually with the division on forms  
 6116 prescribed by the division. Any retailer or seasonal retailer  
 6117 who sells sparklers at more than one retail location may submit  
 6118 one registration form for all such locations but must provide  
 6119 the address of each location with the registration form;  
 6120 however, any retailer or seasonal retailer may submit multiple  
 6121 registration forms.  
 6122 (3) FEES.—  
 6123 (a) Each manufacturer, distributor, or wholesaler must pay  
 6124 an annual registration fee to be set by the division not to  
 6125 exceed \$1,000. Each seasonal retailer must pay an annual  
 6126 registration fee to be set by the division not to exceed \$200  
 6127 per each retail location registered. Each retailer shall pay an  
 6128 annual registration fee to be set by the division not to exceed  
 6129 \$15 for each retail location registered. Each certificateholder  
 6130 wishing to have a duplicate certificate issued for one which is  
 6131 lost or to reflect a change of address shall request such

6160 ~~633.35~~, and who is a member of a duly constituted fire  
 6161 department of such employer or who is a volunteer firefighter.  
 6162 Section 98. Subsection (1) of section 112.81, Florida  
 6163 Statutes, is amended to read:  
 6164 112.81 Definitions.—As used in this part:  
 6165 (1) "Firefighter" means any person who is certified in  
 6166 compliance with s. 633.408 ~~633.35~~ and who is employed solely  
 6167 within the fire department or public safety department of an  
 6168 employing agency as a full-time firefighter whose primary  
 6169 responsibility is the prevention and extinguishment of fires;  
 6170 the protection of life and property; and the enforcement of  
 6171 municipal, county, and state fire prevention codes and laws  
 6172 pertaining to the prevention and control of fires.  
 6173 Section 99. Paragraph (d) of subsection (4) of section  
 6174 119.071, Florida Statutes, is amended to read:  
 6175 119.071 General exemptions from inspection or copying of  
 6176 public records.—  
 6177 (4) AGENCY PERSONNEL INFORMATION.—  
 6178 (d)1. For purposes of this paragraph, the term "telephone  
 6179 numbers" includes home telephone numbers, personal cellular  
 6180 telephone numbers, personal pager telephone numbers, and  
 6181 telephone numbers associated with personal communications  
 6182 devices.  
 6183 2.a. The home addresses, telephone numbers, social  
 6184 security numbers, dates of birth, and photographs of active or  
 6185 former sworn or civilian law enforcement personnel, including  
 6186 correctional and correctional probation officers, personnel of  
 6187 the Department of Children and Family Services whose duties

6188 include the investigation of abuse, neglect, exploitation,  
 6189 fraud, theft, or other criminal activities, personnel of the  
 6190 Department of Health whose duties are to support the  
 6191 investigation of child abuse or neglect, and personnel of the  
 6192 Department of Revenue or local governments whose  
 6193 responsibilities include revenue collection and enforcement or  
 6194 child support enforcement; the home addresses, telephone  
 6195 numbers, social security numbers, photographs, dates of birth,  
 6196 and places of employment of the spouses and children of such  
 6197 personnel; and the names and locations of schools and day care  
 6198 facilities attended by the children of such personnel are exempt  
 6199 from s. 119.07(1).  
 6200 b. The home addresses, telephone numbers, dates of birth,  
 6201 and photographs of firefighters certified in compliance with s.  
 6202 633.408 ~~633.35~~; the home addresses, telephone numbers,  
 6203 photographs, dates of birth, and places of employment of the  
 6204 spouses and children of such firefighters; and the names and  
 6205 locations of schools and day care facilities attended by the  
 6206 children of such firefighters are exempt from s. 119.07(1).  
 6207 c. The home addresses, dates of birth, and telephone  
 6208 numbers of current or former justices of the Supreme Court,  
 6209 district court of appeal judges, circuit court judges, and  
 6210 county court judges; the home addresses, telephone numbers,  
 6211 dates of birth, and places of employment of the spouses and  
 6212 children of current or former justices and judges; and the names  
 6213 and locations of schools and day care facilities attended by the  
 6214 children of current or former justices and judges are exempt  
 6215 from s. 119.07(1).

6216 d. The home addresses, telephone numbers, social security  
 6217 numbers, dates of birth, and photographs of current or former  
 6218 state attorneys, assistant state attorneys, statewide  
 6219 prosecutors, or assistant statewide prosecutors; the home  
 6220 addresses, telephone numbers, social security numbers,  
 6221 photographs, dates of birth, and places of employment of the  
 6222 spouses and children of current or former state attorneys,  
 6223 assistant state attorneys, statewide prosecutors, or assistant  
 6224 statewide prosecutors; and the names and locations of schools  
 6225 and day care facilities attended by the children of current or  
 6226 former state attorneys, assistant state attorneys, statewide  
 6227 prosecutors, or assistant statewide prosecutors are exempt from  
 6228 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.  
 6229 e. The home addresses, dates of birth, and telephone  
 6230 numbers of general magistrates, special magistrates, judges of  
 6231 compensation claims, administrative law judges of the Division  
 6232 of Administrative Hearings, and child support enforcement  
 6233 hearing officers; the home addresses, telephone numbers, dates  
 6234 of birth, and places of employment of the spouses and children  
 6235 of general magistrates, special magistrates, judges of  
 6236 compensation claims, administrative law judges of the Division  
 6237 of Administrative Hearings, and child support enforcement  
 6238 hearing officers; and the names and locations of schools and day  
 6239 care facilities attended by the children of general magistrates,  
 6240 special magistrates, judges of compensation claims,  
 6241 administrative law judges of the Division of Administrative  
 6242 Hearings, and child support enforcement hearing officers are  
 6243 exempt from s. 119.07(1) and s. 24(a), Art. I of the State

6244 Constitution if the general magistrate, special magistrate,  
 6245 judge of compensation claims, administrative law judge of the  
 6246 Division of Administrative Hearings, or child support hearing  
 6247 officer provides a written statement that the general  
 6248 magistrate, special magistrate, judge of compensation claims,  
 6249 administrative law judge of the Division of Administrative  
 6250 Hearings, or child support hearing officer has made reasonable  
 6251 efforts to protect such information from being accessible  
 6252 through other means available to the public.  
 6253 f. The home addresses, telephone numbers, dates of birth,  
 6254 and photographs of current or former human resource, labor  
 6255 relations, or employee relations directors, assistant directors,  
 6256 managers, or assistant managers of any local government agency  
 6257 or water management district whose duties include hiring and  
 6258 firing employees, labor contract negotiation, administration, or  
 6259 other personnel-related duties; the names, home addresses,  
 6260 telephone numbers, dates of birth, and places of employment of  
 6261 the spouses and children of such personnel; and the names and  
 6262 locations of schools and day care facilities attended by the  
 6263 children of such personnel are exempt from s. 119.07(1) and s.  
 6264 24(a), Art. I of the State Constitution.  
 6265 g. The home addresses, telephone numbers, dates of birth,  
 6266 and photographs of current or former code enforcement officers;  
 6267 the names, home addresses, telephone numbers, dates of birth,  
 6268 and places of employment of the spouses and children of such  
 6269 personnel; and the names and locations of schools and day care  
 6270 facilities attended by the children of such personnel are exempt  
 6271 from s. 119.07(1) and s. 24(a), Art. I of the State

6272 Constitution.

6273 h. The home addresses, telephone numbers, places of

6274 employment, dates of birth, and photographs of current or former

6275 guardians ad litem, as defined in s. 39.820; the names, home

6276 addresses, telephone numbers, dates of birth, and places of

6277 employment of the spouses and children of such persons; and the

6278 names and locations of schools and day care facilities attended

6279 by the children of such persons are exempt from s. 119.07(1) and

6280 s. 24(a), Art. I of the State Constitution, if the guardian ad

6281 litem provides a written statement that the guardian ad litem

6282 has made reasonable efforts to protect such information from

6283 being accessible through other means available to the public.

6284 i. The home addresses, telephone numbers, dates of birth,

6285 and photographs of current or former juvenile probation

6286 officers, juvenile probation supervisors, detention

6287 superintendents, assistant detention superintendents, juvenile

6288 justice detention officers I and II, juvenile justice detention

6289 officer supervisors, juvenile justice residential officers,

6290 juvenile justice residential officer supervisors I and II,

6291 juvenile justice counselors, juvenile justice counselor

6292 supervisors, human services counselor administrators, senior

6293 human services counselor administrators, rehabilitation

6294 therapists, and social services counselors of the Department of

6295 Juvenile Justice; the names, home addresses, telephone numbers,

6296 dates of birth, and places of employment of spouses and children

6297 of such personnel; and the names and locations of schools and

6298 day care facilities attended by the children of such personnel

6299 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State

6300 Constitution.

6301 j. The home addresses, telephone numbers, dates of birth,

6302 and photographs of current or former public defenders, assistant

6303 public defenders, criminal conflict and civil regional counsel,

6304 and assistant criminal conflict and civil regional counsel; the

6305 home addresses, telephone numbers, dates of birth, and places of

6306 employment of the spouses and children of such defenders or

6307 counsel; and the names and locations of schools and day care

6308 facilities attended by the children of such defenders or counsel

6309 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State

6310 Constitution.

6311 k. The home addresses, telephone numbers, and photographs

6312 of current or former investigators or inspectors of the

6313 Department of Business and Professional Regulation; the names,

6314 home addresses, telephone numbers, and places of employment of

6315 the spouses and children of such current or former investigators

6316 and inspectors; and the names and locations of schools and day

6317 care facilities attended by the children of such current or

6318 former investigators and inspectors are exempt from s. 119.07(1)

6319 and s. 24(a), Art. I of the State Constitution if the

6320 investigator or inspector has made reasonable efforts to protect

6321 such information from being accessible through other means

6322 available to the public. This sub-subparagraph is subject to the

6323 Open Government Sunset Review Act in accordance with s. 119.15

6324 and shall stand repealed on October 2, 2017, unless reviewed and

6325 saved from repeal through reenactment by the Legislature.

6326 l. The home addresses and telephone numbers of county tax

6327 collectors; the names, home addresses, telephone numbers, and

6328 places of employment of the spouses and children of such tax  
 6329 collectors; and the names and locations of schools and day care  
 6330 facilities attended by the children of such tax collectors are  
 6331 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 6332 Constitution if the county tax collector has made reasonable  
 6333 efforts to protect such information from being accessible  
 6334 through other means available to the public. This sub-  
 6335 subparagraph is subject to the Open Government Sunset Review Act  
 6336 in accordance with s. 119.15 and shall stand repealed on October  
 6337 2, 2017, unless reviewed and saved from repeal through  
 6338 reenactment by the Legislature.  
 6339 3. An agency that is the custodian of the information  
 6340 specified in subparagraph 2. and that is not the employer of the  
 6341 officer, employee, justice, judge, or other person specified in  
 6342 subparagraph 2. shall maintain the exempt status of that  
 6343 information only if the officer, employee, justice, judge, other  
 6344 person, or employing agency of the designated employee submits a  
 6345 written request for maintenance of the exemption to the  
 6346 custodial agency.  
 6347 4. The exemptions in this paragraph apply to information  
 6348 held by an agency before, on, or after the effective date of the  
 6349 exemption.  
 6350 5. This paragraph is subject to the Open Government Sunset  
 6351 Review Act in accordance with s. 119.15, and shall stand  
 6352 repealed on October 2, 2017, unless reviewed and saved from  
 6353 repeal through reenactment by the Legislature.  
 6354 Section 100. Subsection (4) of section 120.541, Florida  
 6355 Statutes, as amended by chapter 2011-222, Laws of Florida, is

6356 amended to read:  
 6357 120.541 Statement of estimated regulatory costs.—  
 6358 (4) Subsection (3) does not apply to the adoption of:  
 6359 (a) Federal standards pursuant to s. 120.54(6).  
 6360 (b) Triennial updates of and amendments to the Florida  
 6361 Building Code which are expressly authorized by s. 553.73.  
 6362 (c) Triennial updates of and amendments to the Florida  
 6363 Fire Prevention Code which are expressly authorized by s.  
 6364 633.202 ~~633.0215~~.  
 6365 Section 101. Subsection (17) of section 120.80, Florida  
 6366 Statutes, is amended to read:  
 6367 120.80 Exceptions and special requirements; agencies.—  
 6368 (17) STATE FIRE MARSHAL.—Section 120.541(3) does not apply  
 6369 to the adoption of amendments and the triennial update to the  
 6370 Florida Fire Prevention Code expressly authorized by s. 633.202  
 6371 ~~633.0215~~.  
 6372 Section 102. Paragraph (b) of subsection (3) and paragraph  
 6373 (a) of subsection (6) of section 121.0515, Florida Statutes, are  
 6374 amended to read:  
 6375 121.0515 Special Risk Class.—  
 6376 (3) CRITERIA.—A member, to be designated as a special risk  
 6377 member, must meet the following criteria:  
 6378 (b) Effective October 1, 1978, the member must be employed  
 6379 as a firefighter and be certified, or required to be certified,  
 6380 in compliance with s. 633.408 ~~633.35~~ and be employed solely  
 6381 within the fire department of a local government employer or an  
 6382 agency of state government with firefighting responsibilities.  
 6383 In addition, the member's duties and responsibilities must

6412 or special district at the time it commenced participating in

6413 the Florida Retirement System or with the governmental unit at

6414 the time of its transfer, merger, or consolidation with the

6415 participating agency. The service must satisfy the criteria set

6416 forth in subsection (3) for Special Risk Class membership as a

6417 law enforcement officer, firefighter, or correctional officer;

6418 however, a certificate or waiver of certificate of compliance

6419 with s. 943.1395 or s. 633.408 ~~633.35~~ is not required for such

6420 service.

6421 Section 103. Paragraph (d) of subsection (1) of section

6422 125.01, Florida Statutes, is amended to read:

6423 125.01 Powers and duties.—

6424 (1) The legislative and governing body of a county shall

6425 have the power to carry on county government. To the extent not

6426 inconsistent with general or special law, this power includes,

6427 but is not restricted to, the power to:

6428 (d) Provide fire protection, including the enforcement of

6429 the Florida Fire Prevention Code, as provided in ss. 633.206

6430 ~~633.022~~ and ~~633.208~~ ~~633.025~~, and adopt and enforce local

6431 technical amendments to the Florida Fire Prevention Code as

6432 provided in those sections and pursuant to s. ~~633.202~~ ~~633.0215~~.

6433 Section 104. Subsection (2) of section 125.01045, Florida

6434 Statutes, is amended to read:

6435 125.01045 Prohibition of fees for first responder

6436 services.—

6437 (2) As used in this section, the term "first responder"

6438 means a law enforcement officer as defined in s. 943.10, a

6439 firefighter as defined in s. 633.102 ~~633.40~~, or an emergency

6384 include on-the-scene fighting of fires; as of October 1, 2001,

6385 fire prevention or firefighter training; as of October 1, 2001,

6386 direct supervision of firefighting units, fire prevention, or

6387 firefighter training; or as of July 1, 2001, aerial firefighting

6388 surveillance performed by fixed-wing aircraft pilots employed by

6389 the Florida Forest Service of the Department of Agriculture and

6390 Consumer Services; or the member must be the supervisor or

6391 command officer of a member or members who have such

6392 responsibilities. Administrative support personnel, including,

6393 but not limited to, those whose primary duties and

6394 responsibilities are in accounting, purchasing, legal, and

6395 personnel, are not included. All periods of creditable service

6396 in fire prevention or firefighter training, or as the supervisor

6397 or command officer of a member or members who have such

6398 responsibilities, and for which the employer paid the special

6399 risk contribution rate, are included;

6400 (6) CREDIT FOR PAST SERVICE.—A special risk member may

6401 purchase retirement credit in the Special Risk Class based upon

6402 past service, and may upgrade retirement credit for such past

6403 service, to the extent of 2 percent of the member's average

6404 monthly compensation as specified in s. 121.091(1) (a) for such

6405 service as follows:

6406 (a) The member may purchase special risk credit for past

6407 service with a municipality or special district which has

6408 elected to join the Florida Retirement System, or with a

6409 participating agency to which a member's governmental unit was

6410 transferred, merged, or consolidated as provided in s.

6411 121.081(1) (f), if the member was employed with the municipality



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6440 medical technician or paramedic as defined in s. 401.23 who is  
 6441 employed by the state or a local government. A volunteer law  
 6442 enforcement officer, firefighter, or emergency medical  
 6443 technician or paramedic engaged by the state or a local  
 6444 government is also considered a first responder of the state or  
 6445 local government for purposes of this section.  
 6446 Section 105. Subsection (1) of section 125.56, Florida  
 6447 Statutes, is amended to read:  
 6448 125.56 Enforcement and amendment of the Florida Building  
 6449 Code and the Florida Fire Prevention Code; inspection fees;  
 6450 inspectors; etc.—  
 6451 (1) The board of county commissioners of each of the  
 6452 several counties of the state is authorized to enforce the  
 6453 Florida Building Code and the Florida Fire Prevention Code, as  
 6454 provided in ss. 553.80, 633.206 ~~633.022~~, and 633.208 ~~633.025~~,  
 6455 and, at its discretion, to adopt local technical amendments to  
 6456 the Florida Building Code, pursuant to s. 553.73(4) (b) and (c)  
 6457 and local technical amendments to the Florida Fire Prevention  
 6458 Code, pursuant to s. 633.202 ~~633.0215~~, to provide for the safe  
 6459 construction, erection, alteration, repair, securing, and  
 6460 demolition of any building within its territory outside the  
 6461 corporate limits of any municipality. Upon a determination to  
 6462 consider amending the Florida Building Code or the Florida Fire  
 6463 Prevention Code by a majority of the members of the board of  
 6464 county commissioners of such county, the board shall call a  
 6465 public hearing and comply with the public notice requirements of  
 6466 s. 125.66(2). The board shall hear all interested parties at the  
 6467 public hearing and may then amend the building code or the fire

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6468 code consistent with the terms and purposes of this act. Upon  
 6469 adoption, an amendment to the code shall be in full force and  
 6470 effect throughout the unincorporated area of such county until  
 6471 otherwise notified by the Florida Building Commission pursuant  
 6472 to s. 553.73 or the State Fire Marshal pursuant to s. 633.202  
 6473 ~~633.0215~~. Nothing herein contained shall be construed to prevent  
 6474 the board of county commissioners from repealing such amendment  
 6475 to the building code or the fire code at any regular meeting of  
 6476 such board.  
 6477 Section 106. Subsection (2) of section 166.0446, Florida  
 6478 Statutes, is amended to read:  
 6479 166.0446 Prohibition of fees for first responder  
 6480 services.—  
 6481 (2) As used in this section, the term "first responder"  
 6482 means a law enforcement officer as defined in s. 943.10, a  
 6483 firefighter as defined in s. 633.102 ~~633.30~~, or an emergency  
 6484 medical technician or paramedic as defined in s. 401.23 who is  
 6485 employed by the state or a local government. A volunteer law  
 6486 enforcement officer, firefighter, or emergency medical  
 6487 technician or paramedic engaged by the state or a local  
 6488 government is also considered a first responder of the state or  
 6489 local government for purposes of this section.  
 6490 Section 107. Paragraph (a) of subsection (8) of section  
 6491 175.032, Florida Statutes, is amended to read:  
 6492 175.032 Definitions.—For any municipality, special fire  
 6493 control district, chapter plan, local law municipality, local  
 6494 law special fire control district, or local law plan under this  
 6495 chapter, the following words and phrases have the following

6496 meanings:

6497 (8) (a) "Firefighter" means any person employed solely by a

6498 constituted fire department of any municipality or special fire

6499 control district who is certified as a firefighter as a

6500 condition of employment in accordance with s. 633.408 ~~633.35~~ and

6501 whose duty it is to extinguish fires, to protect life, or to

6502 protect property. The term includes all certified, supervisory,

6503 and command personnel whose duties include, in whole or in part,

6504 the supervision, training, guidance, and management

6505 responsibilities of full-time firefighters, part-time

6506 firefighters, or auxiliary firefighters but does not include

6507 part-time firefighters or auxiliary firefighters. However, for

6508 purposes of this chapter only, the term also includes public

6509 safety officers who are responsible for performing both police

6510 and fire services, who are certified as police officers or

6511 firefighters, and who are certified by their employers to the

6512 Chief Financial Officer as participating in this chapter before

6513 October 1, 1979. Effective October 1, 1979, public safety

6514 officers who have not been certified as participating in this

6515 chapter are considered police officers for retirement purposes

6516 and are eligible to participate in chapter 185. Any plan may

6517 provide that the fire chief has an option to participate, or

6518 not, in that plan.

6519 Section 108. Subsection (3) of section 175.121, Florida

6520 Statutes, is amended to read:

6521 175.121 Department of Revenue and Division of Retirement

6522 to keep accounts of deposits; disbursements. For any

6523 municipality or special fire control district having a chapter

6524 or local law plan established pursuant to this chapter:

6525 (3) (a) All moneys not distributed to municipalities and

6526 special fire control districts under this section as a result of

6527 the limitation on disbursement contained in s. 175.122, or as a

6528 result of any municipality or special fire control district not

6529 having qualified in any given year, or portion thereof, shall be

6530 transferred to the Firefighters' Supplemental Compensation Trust

6531 Fund administered by the Department of Revenue, as provided in

6532 s. 633.422 ~~633.387~~.

6533 (b) 1. Moneys transferred under paragraph (a) but not

6534 needed to support the supplemental compensation program in a

6535 given year shall be redistributed pro rata to those

6536 participating municipalities and special fire control districts

6537 that transfer any portion of their funds to support the

6538 supplemental compensation program in that year. Such additional

6539 moneys shall be used to cover or offset costs of the retirement

6540 plan.

6541 2. To assist the Department of Revenue, the division shall

6542 identify those municipalities and special fire control districts

6543 that are eligible for redistribution as provided in s.

6544 633.422(3)(c)2. ~~633.382(4)(e)2.~~, by listing the municipalities

6545 and special fire control districts from which funds were

6546 transferred under paragraph (a) and specifying the amount

6547 transferred by each.

6548 Section 109. Paragraph (c) of subsection (6) of section

6549 196.081, Florida Statutes, is amended to read:

6550 196.081 Exemption for certain permanently and totally

6551 disabled veterans and for surviving spouses of veterans;



6580	f. While performing disaster relief activity;
6581	g. While otherwise engaging in emergency response activity; or
6582	h. While engaging in a training exercise related to any of the events or activities enumerated in this subparagraph if the training has been authorized by the employing entity.
6583	
6584	A heart attack or stroke that causes death or causes an injury resulting in death must occur within 24 hours after an event or activity enumerated in this subparagraph and must be directly and proximately caused by the event or activity in order to be considered as having occurred in the line of duty.
6585	Section 110. Paragraph (e) of subsection (1) of section 218.23, Florida Statutes, is amended to read:
6586	218.23 Revenue sharing with units of local government.—
6587	(1) To be eligible to participate in revenue sharing beyond the minimum entitlement in any fiscal year, a unit of local government is required to have:
6588	(e) Certified that persons in its employ as firefighters, as defined in s. 633.102(9) <del>633.30(1)</del> , meet the qualification for employment as established by the Division of State Fire Marshal pursuant to the provisions of ss. <u>633.412</u> <del>633.34</del> and <u>633.408</u> <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.
6589	633.408 <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.
6590	633.408 <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.
6591	633.408 <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.
6592	633.408 <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.
6593	633.408 <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.
6594	633.408 <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.
6595	633.408 <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.
6596	633.408 <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.
6597	633.408 <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.
6598	633.408 <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.
6599	633.408 <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.
6600	633.408 <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.
6601	633.408 <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.
6602	633.408 <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.
6603	633.408 <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.
6604	633.408 <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.
6605	633.408 <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.
6606	633.408 <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.
6607	633.408 <del>633.35</del> and that the provisions of s. <u>633.422</u> <del>633.36</del> have been met.

6552	exemption for surviving spouses of first responders who die in the line of duty.—
6553	(6) Any real estate that is owned and used as a homestead by the surviving spouse of a first responder who died in the line of duty while employed by the state or any political subdivision of the state, including authorities and special districts, and for whom a letter from the state or appropriate political subdivision of the state, or other authority or special district, has been issued which legally recognizes and certifies that the first responder died in the line of duty while employed as a first responder is exempt from taxation if the first responder and his or her surviving spouse were permanent residents of this state on January 1 of the year in which the first responder died.
6554	(c) As used in this subsection only, and not applicable to the payment of benefits under s. 112.19 or s. 112.191, the term: 1. "First responder" means a law enforcement officer or correctional officer as defined in s. 943.10, a firefighter as defined in s. <u>633.102</u> <del>633.30</del> , or an emergency medical technician or paramedic as defined in s. 401.23 who is a full-time paid employee, part-time paid employee, or unpaid volunteer.
6555	2. "In the line of duty" means:
6556	a. While engaging in law enforcement;
6557	b. While performing an activity relating to fire suppression and prevention;
6558	c. While responding to a hazardous material emergency;
6559	d. While performing rescue activity;
6560	e. While providing emergency medical services;
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6608 met. The certification shall be made annually within 30 days of  
 6609 adoption of an ordinance or resolution establishing a final  
 6610 property tax levy or, if no property tax is levied, not later  
 6611 than November 1. The portion of revenue sharing funds which,  
 6612 pursuant to this part, would otherwise be distributed to a unit  
 6613 of local government which has not certified compliance or has  
 6614 otherwise failed to meet the requirements of s. 200.065 shall be  
 6615 deposited in the General Revenue Fund for the 12 months  
 6616 following a determination of noncompliance by the department.  
 6617 Section 111. Paragraph (a) of subsection (3) of section  
 6618 252.515, Florida Statutes, is amended to read:  
 6619 252.515 Postdisaster Relief Assistance Act; immunity from  
 6620 civil liability.—  
 6621 (3) As used in this section, the term:  
 6622 (a) "Emergency first responder" means:  
 6623 1. A physician licensed under chapter 458.  
 6624 2. An osteopathic physician licensed under chapter 459.  
 6625 3. A chiropractic physician licensed under chapter 460.  
 6626 4. A podiatric physician licensed under chapter 461.  
 6627 5. A dentist licensed under chapter 466.  
 6628 6. An advanced registered nurse practitioner certified  
 6629 under s. 464.012.  
 6630 7. A physician assistant licensed under s. 458.347 or s.  
 6631 459.022.  
 6632 8. A worker employed by a public or private hospital in  
 6633 the state.  
 6634 9. A paramedic as defined in s. 401.23(17).  
 6635 10. An emergency medical technician as defined in s.

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6636 401.23(11).  
 6637 11. A firefighter as defined in s. 633.102 ~~633.30~~.  
 6638 12. A law enforcement officer as defined in s. 943.10.  
 6639 13. A member of the Florida National Guard.  
 6640 14. Any other personnel designated as emergency personnel  
 6641 by the Governor pursuant to a declared emergency.  
 6642 Section 112. Section 255.45, Florida Statutes, is amended  
 6643 to read:  
 6644 255.45 Correction of firesafety violations in certain  
 6645 state-owned property.—The Department of Management Services is  
 6646 responsible for ensuring that firesafety violations that are  
 6647 noted by the State Fire Marshal pursuant to s. 633.218 ~~633.005~~  
 6648 are corrected as soon as practicable for all state-owned  
 6649 property which is leased from the Department of Management  
 6650 Services.  
 6651 Section 113. Subsection (4) of section 258.0145, Florida  
 6652 Statutes, is amended to read:  
 6653 258.0145 Military state park fee discounts.—The Division  
 6654 of Recreation and Parks shall provide the following discounts on  
 6655 park fees to persons who present written documentation  
 6656 satisfactory to the division which evidences their eligibility  
 6657 for the discounts:  
 6658 (4) The surviving spouse and parents of a law enforcement  
 6659 officer, as defined in s. 943.10(1), or a firefighter, as  
 6660 defined in s. 633.102(9) ~~633.30(4)~~, who has died in the line of  
 6661 duty shall receive lifetime family annual entrance passes at no  
 6662 charge.  
 6663 Section 114. Subsection (1) of section 281.02, Florida

6692 and the Florida Fire Prevention Code under ss. 553.73 and  
 6693 633.206 ~~633.022~~. In addition to the requirements of ss. 553.79  
 6694 and 553.80, the agency shall review facility plans and survey  
 6695 the construction of any facility licensed under this chapter.  
 6696 The agency shall make, or cause to be made, such construction  
 6697 inspections and investigations as it deems necessary. The agency  
 6698 may prescribe by rule that any licensee or applicant desiring to  
 6699 make specified types of alterations or additions to its  
 6700 facilities or to construct new facilities shall, before  
 6701 commencing such alteration, addition, or new construction,  
 6702 submit plans and specifications therefor to the agency for  
 6703 preliminary inspection and approval or recommendation with  
 6704 respect to compliance with applicable provisions of the Florida  
 6705 Building Code or agency rules and standards. The agency shall  
 6706 approve or disapprove the plans and specifications within 60  
 6707 days after receipt of the fee for review of plans as required in  
 6708 subsection (2). The agency may be granted one 15-day extension  
 6709 for the review period if the director of the agency approves the  
 6710 extension. If the agency fails to act within the specified time,  
 6711 it shall be deemed to have approved the plans and  
 6712 specifications. When the agency disapproves plans and  
 6713 specifications, it shall set forth in writing the reasons for  
 6714 its disapproval. Conferences and consultations may be provided  
 6715 as necessary.  
 6716 Section 117. Section 400.232, Florida Statutes, is amended  
 6717 to read:  
 6718 400.232 Review and approval of plans; fees and costs.—The  
 6719 design, construction, erection, alteration, modification,

6664 Statutes, is amended to read:  
 6665 281.02 Powers and duties of the Department of Management  
 6666 Services with respect to firesafety and security.—The Department  
 6667 of Management Services has the following powers and duties with  
 6668 respect to firesafety and security:  
 6669 (1) To assist the State Fire Marshal in maintaining the  
 6670 firesafety of public buildings pursuant to s. 633.218 ~~633.085~~.  
 6671 Section 115. Subsection (1) of section 384.287, Florida  
 6672 Statutes, is amended to read:  
 6673 384.287 Screening for sexually transmissible disease.—  
 6674 (1) An officer as defined in s. 943.10(14); support  
 6675 personnel as defined in s. 943.10(11) who are employed by the  
 6676 Department of Law Enforcement, including, but not limited to,  
 6677 any crime scene analyst, forensic technologist, or crime lab  
 6678 analyst; firefighter as defined in s. 633.102 ~~633.30~~; or  
 6679 ambulance driver, paramedic, or emergency medical technician as  
 6680 defined in s. 401.23, acting within the scope of employment, who  
 6681 comes into contact with a person in such a way that significant  
 6682 exposure, as defined in s. 381.004, has occurred may request  
 6683 that the person be screened for a sexually transmissible disease  
 6684 that can be transmitted through a significant exposure.  
 6685 Section 116. Paragraph (a) of subsection (1) of section  
 6686 395.0163, Florida Statutes, is amended to read:  
 6687 395.0163 Construction inspections; plan submission and  
 6688 approval; fees.—  
 6689 (1) (a) The design, construction, erection, alteration,  
 6690 modification, repair, and demolition of all public and private  
 6691 health care facilities are governed by the Florida Building Code

6748 other provisions of law to the contrary, all money received by  
 6749 the agency pursuant to the provisions of this section shall be  
 6750 deemed to be trust funds, to be held and applied solely for the  
 6751 operations required under this section.  
 6752 Section 118. Subsection (2) of section 400.915, Florida  
 6753 Statutes, is amended to read:  
 6754 400.915 Construction and renovation; requirements.—The  
 6755 requirements for the construction or renovation of a PEFC center  
 6756 shall comply with:  
 6757 (2) The provisions of s. 633.206 ~~633.022~~ and applicable  
 6758 rules pertaining to physical standards for nonresidential child  
 6759 care facilities; and  
 6760 Section 119. Paragraph (a) of subsection (1) of section  
 6761 429.41, Florida Statutes, is amended to read:  
 6762 429.41 Rules establishing standards.—  
 6763 (1) It is the intent of the Legislature that rules  
 6764 published and enforced pursuant to this section shall include  
 6765 criteria by which a reasonable and consistent quality of  
 6766 resident care and quality of life may be ensured and the results  
 6767 of such resident care may be demonstrated. Such rules shall also  
 6768 ensure a safe and sanitary environment that is residential and  
 6769 noninstitutional in design or nature. It is further intended  
 6770 that reasonable efforts be made to accommodate the needs and  
 6771 preferences of residents to enhance the quality of life in a  
 6772 facility. The agency, in consultation with the department, may  
 6773 adopt rules to administer the requirements of part II of chapter  
 6774 408. In order to provide safe and sanitary facilities and the  
 6775 highest quality of resident care accommodating the needs and

6720 repair, and demolition of all public and private health care  
 6721 facilities are governed by the Florida Building Code and the  
 6722 Florida Fire Prevention Code under ss. 553.73 and 533.206  
 6723 ~~633.022~~. In addition to the requirements of ss. 553.79 and  
 6724 553.80, the agency shall review the facility plans and survey  
 6725 the construction of facilities licensed under this chapter.  
 6726 (1) The agency shall approve or disapprove the plans and  
 6727 specifications within 60 days after receipt of the final plans  
 6728 and specifications. The agency may be granted one 15-day  
 6729 extension for the review period, if the director of the agency  
 6730 so approves. If the agency fails to act within the specified  
 6731 time, it shall be deemed to have approved the plans and  
 6732 specifications. When the agency disapproves plans and  
 6733 specifications, it shall set forth in writing the reasons for  
 6734 disapproval. Conferences and consultations may be provided as  
 6735 necessary.  
 6736 (2) The agency is authorized to charge an initial fee of  
 6737 \$2,000 for review of plans and construction on all projects, no  
 6738 part of which is refundable. The agency may also collect a fee,  
 6739 not to exceed 1 percent of the estimated construction cost or  
 6740 the actual cost of review, whichever is less, for the portion of  
 6741 the review which encompasses initial review through the initial  
 6742 revised construction document review. The agency is further  
 6743 authorized to collect its actual costs on all subsequent  
 6744 portions of the review and construction inspections. Initial fee  
 6745 payment shall accompany the initial submission of plans and  
 6746 specifications. Any subsequent payment that is due is payable  
 6747 upon receipt of the invoice from the agency. Notwithstanding any

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6776 preferences of residents, the department, in consultation with  
 6777 the agency, the Department of Children and Family Services, and  
 6778 the Department of Health, shall adopt rules, policies, and  
 6779 procedures to administer this part, which must include  
 6780 reasonable and fair minimum standards in relation to:  
 6781 (a) The requirements for and maintenance of facilities,  
 6782 not in conflict with the provisions of chapter 553, relating to  
 6783 plumbing, heating, cooling, lighting, ventilation, living space,  
 6784 and other housing conditions, which will ensure the health,  
 6785 safety, and comfort of residents and protection from fire  
 6786 hazard, including adequate provisions for fire alarm and other  
 6787 fire protection suitable to the size of the structure. Uniform  
 6788 firesafety standards shall be established and enforced by the  
 6789 State Fire Marshal in cooperation with the agency, the  
 6790 department, and the Department of Health.  
 6791 1. Evacuation capability determination.—  
 6792 a. The provisions of the National Fire Protection  
 6793 Association, NFPA 101A, Chapter 5, 1995 edition, shall be used  
 6794 for determining the ability of the residents, with or without  
 6795 staff assistance, to relocate from or within a licensed facility  
 6796 to a point of safety as provided in the fire codes adopted  
 6797 herein. An evacuation capability evaluation for initial  
 6798 licensure shall be conducted within 6 months after the date of  
 6799 licensure. For existing licensed facilities that are not  
 6800 equipped with an automatic fire sprinkler system, the  
 6801 administrator shall evaluate the evacuation capability of  
 6802 residents at least annually. The evacuation capability  
 6803 evaluation for each facility not equipped with an automatic fire

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6804 sprinkler system shall be validated, without liability, by the  
 6805 State Fire Marshal, by the local fire marshal, or by the local  
 6806 authority having jurisdiction over firesafety, before the  
 6807 license renewal date. If the State Fire Marshal, local fire  
 6808 marshal, or local authority having jurisdiction over firesafety  
 6809 has reason to believe that the evacuation capability of a  
 6810 facility as reported by the administrator may have changed, it  
 6811 may, with assistance from the facility administrator, reevaluate  
 6812 the evacuation capability through timed exiting drills.  
 6813 Transition of timed fire exiting drills to evacuation  
 6814 capability may be determined:  
 6815 (I) Three minutes or less: prompt.  
 6816 (II) More than 3 minutes, but not more than 13 minutes:  
 6817 slow.  
 6818 (III) More than 13 minutes: impractical.  
 6819 b. The Office of the State Fire Marshal shall provide or  
 6820 cause the provision of training and education on the proper  
 6821 application of Chapter 5, NFPA 101A, 1995 edition, to its  
 6822 employees, to staff of the Agency for Health Care Administration  
 6823 who are responsible for regulating facilities under this part,  
 6824 and to local governmental inspectors. The Office of the State  
 6825 Fire Marshal shall provide or cause the provision of this  
 6826 training within its existing budget, but may charge a fee for  
 6827 this training to offset its costs. The initial training must be  
 6828 delivered within 6 months after July 1, 1995, and as needed  
 6829 thereafter.  
 6830 c. The Office of the State Fire Marshal, in cooperation  
 6831 with provider associations, shall provide or cause the provision

6860 As used in this part, the term "a new facility" does not mean an  
 6861 existing facility that has undergone change of ownership.  
 6862 c. Notwithstanding any provision of s. 633.206 ~~633-022~~ or  
 6863 of the National Fire Protection Association, NFPA 101A, Chapter  
 6864 5, 1995 edition, to the contrary, any existing facility housing  
 6865 eight or fewer residents is not required to install an automatic  
 6866 fire sprinkler system, nor to comply with any other requirement  
 6867 in Chapter 23, NFPA 101, 1994 edition, that exceeds the  
 6868 firesafety requirements of NFPA 101, 1988 edition, that applies  
 6869 to this size facility, unless the facility has been classified  
 6870 as impractical to evacuate. Any existing facility housing eight  
 6871 or fewer residents that is classified as impractical to evacuate  
 6872 must install an automatic fire sprinkler system within the  
 6873 timeframes granted in this section.  
 6874 d. Any existing facility that is required to install an  
 6875 automatic fire sprinkler system under this paragraph need not  
 6876 meet other firesafety requirements of Chapter 23, NFPA 101, 1994  
 6877 edition, which exceed the provisions of NFPA 101, 1988 edition.  
 6878 The mandate contained in this paragraph which requires certain  
 6879 facilities to install an automatic fire sprinkler system  
 6880 supersedes any other requirement.  
 6881 e. This paragraph does not supersede the exceptions  
 6882 granted in NFPA 101, 1988 edition or 1994 edition.  
 6883 f. This paragraph does not exempt facilities from other  
 6884 firesafety provisions adopted under s. 633.206 ~~633-022~~ and local  
 6885 building code requirements in effect before July 1, 1995.  
 6886 g. A local government may charge fees only in an amount  
 6887 not to exceed the actual expenses incurred by local government

6832 of a training program designed to inform facility operators on  
 6833 how to properly review bid documents relating to the  
 6834 installation of automatic fire sprinklers. The Office of the  
 6835 State Fire Marshal shall provide or cause the provision of this  
 6836 training within its existing budget, but may charge a fee for  
 6837 this training to offset its costs. The initial training must be  
 6838 delivered within 6 months after July 1, 1995, and as needed  
 6839 thereafter.  
 6840 d. The administrator of a licensed facility shall sign an  
 6841 affidavit verifying the number of residents occupying the  
 6842 facility at the time of the evacuation capability evaluation.  
 6843 2. Firesafety requirements.-  
 6844 a. Except for the special applications provided herein,  
 6845 effective January 1, 1996, the provisions of the National Fire  
 6846 Protection Association, Life Safety Code, NFPA 101, 1994  
 6847 edition, Chapter 22 for new facilities and Chapter 23 for  
 6848 existing facilities shall be the uniform fire code applied by  
 6849 the State Fire Marshal for assisted living facilities, pursuant  
 6850 to s. 633.206 ~~633-022~~.  
 6851 b. Any new facility, regardless of size, that applies for  
 6852 a license on or after January 1, 1996, must be equipped with an  
 6853 automatic fire sprinkler system. The exceptions as provided in  
 6854 s. 22-2.3.5.1, NFPA 101, 1994 edition, as adopted herein, apply  
 6855 to any new facility housing eight or fewer residents. On July 1,  
 6856 1995, local governmental entities responsible for the issuance  
 6857 of permits for construction shall inform, without liability, any  
 6858 facility whose permit for construction is obtained prior to  
 6859 January 1, 1996, of this automatic fire sprinkler requirement.



6916 upon receipt of written notice from the local fire official that  
 6917 an automatic fire sprinkler system must be installed. The local  
 6918 fire official shall send a copy of the document indicating the  
 6919 requirement of a fire sprinkler system to the Agency for Health  
 6920 Care Administration.

6921 j. It is recognized that the installation of an automatic  
 6922 fire sprinkler system may create financial hardship for some  
 6923 facilities. The appropriate local fire official shall, without  
 6924 liability, grant two 1-year extensions to the timeframes for  
 6925 installation established herein, if an automatic fire sprinkler  
 6926 installation cost estimate and proof of denial from two  
 6927 financial institutions for a construction loan to install the  
 6928 automatic fire sprinkler system are submitted. However, for any  
 6929 facility with a class I or class II, or a history of uncorrected  
 6930 class III, firesafety deficiencies, an extension must not be  
 6931 granted. The local fire official shall send a copy of the  
 6932 document granting the time extension to the Agency for Health  
 6933 Care Administration.

6934 k. A facility owner whose facility is required to be  
 6935 equipped with an automatic fire sprinkler system under Chapter  
 6936 23, NFPA 101, 1994 edition, as adopted herein, must disclose to  
 6937 any potential buyer of the facility that an installation of an  
 6938 automatic fire sprinkler requirement exists. The sale of the  
 6939 facility does not alter the timeframe for the installation of  
 6940 the automatic fire sprinkler system.  
 6941 1. Existing facilities required to install an automatic  
 6942 fire sprinkler system as a result of construction-type  
 6943 restrictions in Chapter 23, NFPA 101, 1994 edition, as adopted

6888 relating to the installation and maintenance of an automatic  
 6889 fire sprinkler system in an existing and properly licensed  
 6890 assisted living facility structure as of January 1, 1996.

6891 h. If a licensed facility undergoes major reconstruction  
 6892 or addition to an existing building on or after January 1, 1996,  
 6893 the entire building must be equipped with an automatic fire  
 6894 sprinkler system. Major reconstruction of a building means  
 6895 repair or restoration that costs in excess of 50 percent of the  
 6896 value of the building as reported on the tax rolls, excluding  
 6897 land, before reconstruction. Multiple reconstruction projects  
 6898 within a 5-year period the total costs of which exceed 50  
 6899 percent of the initial value of the building at the time the  
 6900 first reconstruction project was permitted are to be considered  
 6901 as major reconstruction. Application for a permit for an  
 6902 automatic fire sprinkler system is required upon application for  
 6903 a permit for a reconstruction project that creates costs that go  
 6904 over the 50-percent threshold.

6905 i. Any facility licensed before January 1, 1996, that is  
 6906 required to install an automatic fire sprinkler system shall  
 6907 ensure that the installation is completed within the following  
 6908 timeframes based upon evacuation capability of the facility as  
 6909 determined under subparagraph 1.:

- 6910 (I) Impractical evacuation capability, 24 months.
- 6911 (II) Slow evacuation capability, 48 months.
- 6912 (III) Prompt evacuation capability, 60 months.
- 6913

6914 The beginning date from which the deadline for the automatic  
 6915 fire sprinkler installation requirement must be calculated is

6972 prevention and response drills per year. All administrators and  
 6973 direct care staff must participate in the drills which shall  
 6974 include a review of procedures to address resident elopement.  
 6975 Facilities must document the implementation of the drills and  
 6976 ensure that the drills are conducted in a manner consistent with  
 6977 the facility's resident elopement policies and procedures.  
 6978 Section 120. Subsection (1) of section 429.44, Florida  
 6979 Statutes, is amended to read:  
 6980 429.44 Construction and renovation; requirements.—  
 6981 (1) The requirements for the construction and renovation  
 6982 of a facility shall comply with the provisions of chapter 553  
 6983 which pertain to building construction standards, including  
 6984 plumbing, electrical code, glass, manufactured buildings,  
 6985 accessibility for persons with disabilities, and the state  
 6986 minimum building code and with the provisions of s. 633.206  
 6987 ~~633.022~~, which pertain to uniform firesafety standards.  
 6988 Section 121. Subsection (2) of section 429.73, Florida  
 6989 Statutes, is amended to read:  
 6990 429.73 Rules and standards relating to adult family-care  
 6991 homes.—  
 6992 (2) The department shall by rule provide minimum standards  
 6993 and procedures for emergencies. Pursuant to s. 633.206 ~~633.022~~,  
 6994 the State Fire Marshal, in consultation with the department and  
 6995 the agency, shall adopt uniform firesafety standards for adult  
 6996 family-care homes.  
 6997 Section 122. Paragraph (b) of subsection (4) of section  
 6998 447.203, Florida Statutes, is amended to read:  
 6999 447.203 Definitions.—As used in this part:

6944 herein, or evacuation capability requirements shall be notified  
 6945 by the local fire official in writing of the automatic fire  
 6946 sprinkler requirement, as well as the appropriate date for final  
 6947 compliance as provided in this subparagraph. The local fire  
 6948 official shall send a copy of the document to the Agency for  
 6949 Health Care Administration.  
 6950 m. Except in cases of life-threatening fire hazards, if an  
 6951 existing facility experiences a change in the evacuation  
 6952 capability, or if the local authority having jurisdiction  
 6953 identifies a construction-type restriction, such that an  
 6954 automatic fire sprinkler system is required, it shall be  
 6955 afforded time for installation as provided in this subparagraph.  
 6956  
 6957 Facilities that are fully sprinkled and in compliance with other  
 6958 firesafety standards are not required to conduct more than one  
 6959 of the required fire drills between the hours of 11 p.m. and 7  
 6960 a.m., per year. In lieu of the remaining drills, staff  
 6961 responsible for residents during such hours may be required to  
 6962 participate in a mock drill that includes a review of evacuation  
 6963 procedures. Such standards must be included or referenced in the  
 6964 rules adopted by the State Fire Marshal. Pursuant to s.  
 6965 633.206(1)(b) ~~633.022(1)(b)~~, the State Fire Marshal is the final  
 6966 administrative authority for firesafety standards established  
 6967 and enforced pursuant to this section. All licensed facilities  
 6968 must have an annual fire inspection conducted by the local fire  
 6969 marshal or authority having jurisdiction.  
 6970 3. Resident elopement requirements.—Facilities are  
 6971 required to conduct a minimum of two resident elopement



(c) Meets eligibility requirements according to one of the following criteria:

1. Demonstrates 5 years' combined experience in the field of construction or a related field, building code inspection, or plans review corresponding to the certification category sought;
2. Demonstrates a combination of postsecondary education in the field of construction or a related field and experience which totals 4 years, with at least 1 year of such total being experience in construction, building code inspection, or plans review;
3. Demonstrates a combination of technical education in the field of construction or a related field and experience which totals 4 years, with at least 1 year of such total being experience in construction, building code inspection, or plans review;
4. Currently holds a standard certificate as issued by the board, or a fire safety inspector license issued pursuant to chapter 633, has a minimum of 5 years' verifiable full-time experience in inspection or plan review, and satisfactorily completes a building code inspector or plans examiner training program of not less than 200 hours in the certification category sought. The board shall establish by rule criteria for the development and implementation of the training programs; or
5. Demonstrates a combination of the completion of an approved training program in the field of building code inspection or plan review and a minimum of 2 years' experience in the field of building code inspection, plan review, fire code inspections and fire plans review of new buildings as a

(4) "Managerial employees" are those employees who:

- (b) Serve as police chiefs, fire chiefs, or directors of public safety of any police, fire, or public safety department.
- Other police officers, as defined in s. 943.10(1), and firefighters, as defined in s. 633.102(9) ~~633.30(4)~~, may be determined by the commission to be managerial employees of such departments. In making such determinations, the commission shall consider, in addition to the criteria established in paragraph (a), the paramilitary organizational structure of the department involved.

However, in determining whether an individual is a managerial employee pursuant to either paragraph (a) or paragraph (b), above, the commission may consider historic relationships of the employee to the public employer and to coemployees.

Section 123. Subsection (1) of section 468.602, Florida Statutes, is amended to read:

468.602 Exemptions.—This part does not apply to:

- (1) Persons who possess a valid certificate, issued pursuant to s. 633.216 ~~633.661~~, for conducting firesafety inspections, when conducting firesafety inspections.
- Section 124. Paragraph (c) of subsection (2) of section 468.609, Florida Statutes, is amended to read:
- 468.609 Administration of this part; standards for certification; additional categories of certification.—
- (2) A person may take the examination for certification as a building code inspector or plans examiner pursuant to this part if the person:

7056 firesafety inspector certified under s. 633.216 ~~633.081(2)~~, or  
 7057 construction. The approved training portion of this requirement  
 7058 shall include proof of satisfactory completion of a training  
 7059 program of not less than 300 hours which is approved by the  
 7060 board in the chosen category of building code inspection or plan  
 7061 review in the certification category sought with not less than  
 7062 20 hours of instruction in state laws, rules, and ethics  
 7063 relating to professional standards of practice, duties, and  
 7064 responsibilities of a certificateholder. The board shall  
 7065 coordinate with the Building Officials Association of Florida,  
 7066 Inc., to establish by rule the development and implementation of  
 7067 the training program.  
 7068 Section 125. Subsection (22) of section 489.103, Florida  
 7069 Statutes, is amended to read:  
 7070 489.103 Exemptions.—This part does not apply to:  
 7071 (22) A person licensed pursuant to s. 633.304(1)(d)  
 7072 ~~633.051(1)(b)~~ or (3)(b) performing work authorized by such  
 7073 license.  
 7074 Section 126. Paragraph (n) of subsection (3) of section  
 7075 489.105, Florida Statutes, is amended to read:  
 7076 489.105 Definitions.—As used in this part:  
 7077 (3) "Contractor" means the person who is qualified for,  
 7078 and is only responsible for, the project contracted for and  
 7079 means, except as exempted in this part, the person who, for  
 7080 compensation, undertakes to, submits a bid to, or does himself  
 7081 or herself or by others construct, repair, alter, remodel, add  
 7082 to, demolish, subtract from, or improve any building or  
 7083 structure, including related improvements to real estate, for

7084 others or for resale to others; and whose job scope is  
 7085 substantially similar to the job scope described in one of the  
 7086 paragraphs of this subsection. For the purposes of regulation  
 7087 under this part, the term "demolish" applies only to demolition  
 7088 of steel tanks more than 50 feet in height; towers more than 50  
 7089 feet in height; other structures more than 50 feet in height;  
 7090 and all buildings or residences. Contractors are subdivided into  
 7091 two divisions, Division I, consisting of those contractors  
 7092 defined in paragraphs (a)-(c), and Division II, consisting of  
 7093 those contractors defined in paragraphs (d)-(g):  
 7094 (n) "Underground utility and excavation contractor" means  
 7095 a contractor whose services are limited to the construction,  
 7096 installation, and repair, on public or private property, whether  
 7097 accomplished through open excavations or through other means,  
 7098 including, but not limited to, directional drilling, auger  
 7099 boring, jacking and boring, trenchless technologies, wet and dry  
 7100 taps, grouting, and slip lining, of main sanitary sewer  
 7101 collection systems, main water distribution systems, storm sewer  
 7102 collection systems, and the continuation of utility lines from  
 7103 the main systems to a point of termination up to and including  
 7104 the meter location for the individual occupancy, sewer  
 7105 collection systems at property line on residential or single-  
 7106 occupancy commercial properties, or on multioccupancy properties  
 7107 at manhole or wye lateral extended to an invert elevation as  
 7108 engineered to accommodate future building sewers, water  
 7109 distribution systems, or storm sewer collection systems at storm  
 7110 sewer structures. However, an underground utility and excavation  
 7111 contractor may install empty underground conduits in rights-of-

7112 way, easements, platted rights-of-way in new site development,  
 7113 and sleeves for parking lot crossings no smaller than 2 inches  
 7114 in diameter if each conduit system installed is designed by a  
 7115 licensed professional engineer or an authorized employee of a  
 7116 municipality, county, or public utility and the installation of  
 7117 such conduit does not include installation of any conductor  
 7118 wiring or connection to an energized electrical system. An  
 7119 underground utility and excavation contractor may not install  
 7120 piping that is an integral part of a fire protection system as  
 7121 defined in s. ~~633.102~~ ~~633.021~~ beginning at the point where the  
 7122 piping is used exclusively for such system.  
 7123 Section 127. Subsection (9) of section 496.404, Florida  
 7124 Statutes, is amended to read:  
 7125 496.404 Definitions.—As used in ss. 496.401-496.424:  
 7126 (9) "Emergency service employee" means any employee who is  
 7127 a firefighter, as defined in s. ~~633.102~~ ~~633.30~~, or ambulance  
 7128 driver, emergency medical technician, or paramedic, as defined  
 7129 in s. 401.23.  
 7130 Section 128. Paragraph (a) of subsection (7) of section  
 7131 509.032, Florida Statutes, is amended to read:  
 7132 509.032 Duties.—  
 7133 (7) PREEMPTION AUTHORITY.—  
 7134 (a) The regulation of public lodging establishments and  
 7135 public food service establishments, including, but not limited  
 7136 to, sanitation standards, inspections, training and testing of  
 7137 personnel, and matters related to the nutritional content and  
 7138 marketing of foods offered in such establishments, is preempted  
 7139 to the state. This paragraph does not preempt the authority of a

7140 Local government or local enforcement district to conduct  
 7141 inspections of public lodging and public food service  
 7142 establishments for compliance with the Florida Building Code and  
 7143 the Florida Fire Prevention Code, pursuant to ss. 553.80 and  
 7144 ~~633.206~~ ~~633.022~~.  
 7145 Section 129. Section 513.05, Florida Statutes, is amended  
 7146 to read:  
 7147 513.05 Rules.—The department may adopt rules pertaining to  
 7148 the location, construction, modification, equipment, and  
 7149 operation of mobile home parks, lodging parks, recreational  
 7150 vehicle parks, and recreational camps, except as provided in s.  
 7151 ~~633.206~~ ~~633.022~~, as necessary to administer this chapter. Such  
 7152 rules may include definitions of terms; requirements for plan  
 7153 reviews of proposed and existing parks and camps; plan reviews  
 7154 of parks that consolidate space or change space size; water  
 7155 supply; sewage collection and disposal; plumbing and backflow  
 7156 prevention; garbage and refuse storage, collection, and  
 7157 disposal; insect and rodent control; space requirements; heating  
 7158 facilities; food service; lighting; sanitary facilities;  
 7159 bedding; an occupancy equivalency to spaces for permits for  
 7160 recreational camps; sanitary facilities in recreational vehicle  
 7161 parks; and the owners' responsibilities at recreational vehicle  
 7162 parks and recreational camps.  
 7163 Section 130. Paragraph (d) of subsection (1) and paragraph  
 7164 (f) of subsection (11) of section 553.73, Florida Statutes, are  
 7165 amended to read:  
 7166 553.73 Florida Building Code.—  
 7167 (1)

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7168 (d) Conflicting requirements between the Florida Building  
 7169 Code and the Florida Fire Prevention Code and Life Safety Code  
 7170 of the state established pursuant to ss. 633.206 ~~633.022~~ and  
 7171 633.208 ~~633.025~~ shall be resolved by agreement between the  
 7172 commission and the State Fire Marshal in favor of the  
 7173 requirement that offers the greatest degree of lifesafety or  
 7174 alternatives that would provide an equivalent degree of  
 7175 lifesafety and an equivalent method of construction. If the  
 7176 commission and State Fire Marshal are unable to agree on a  
 7177 resolution, the question shall be referred to a mediator,  
 7178 mutually agreeable to both parties, to resolve the conflict in  
 7179 favor of the provision that offers the greatest lifesafety, or  
 7180 alternatives that would provide an equivalent degree of  
 7181 lifesafety and an equivalent method of construction.  
 7182 (11)  
 7183 (f) All decisions of the local building official and local  
 7184 fire official and all decisions of the administrative board  
 7185 shall be in writing and shall be binding upon all persons but  
 7186 shall not limit the authority of the State Fire Marshal or the  
 7187 Florida Building Commission pursuant to paragraph (1) (d) and ss.  
 7188 633.104 ~~633.04~~ and 633.228 ~~633.164~~. Decisions of general  
 7189 application shall be indexed by building and fire code sections  
 7190 and shall be available for inspection during normal business  
 7191 hours.  
 7192 Section 131. Paragraph (e) of subsection (1) of section  
 7193 553.77, Florida Statutes, is amended to read:  
 7194 553.77 Specific powers of the commission.—  
 7195 (1) The commission shall:

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7196 (e) Participate with the Florida Fire Code Advisory  
 7197 Council created under s. 633.204 ~~633.72~~, to provide assistance  
 7198 and recommendations relating to firesafety code interpretations.  
 7199 The administrative staff of the commission shall attend meetings  
 7200 of the Florida Fire Code Advisory Council and coordinate efforts  
 7201 to provide consistency between the Florida Building Code and the  
 7202 Florida Fire Prevention Code and the Life Safety Code.  
 7203 Section 132. Subsections (2) and (12) of section 553.79,  
 7204 Florida Statutes, are amended to read:  
 7205 553.79 Permits; applications; issuance; inspections.—  
 7206 (2) Except as provided in subsection (6), an enforcing  
 7207 agency may not issue any permit for construction, erection,  
 7208 alteration, modification, repair, or demolition of any building  
 7209 or structure until the local building code administrator or  
 7210 inspector has reviewed the plans and specifications required by  
 7211 the Florida Building Code, or local amendment thereto, for such  
 7212 proposal and found the plans to be in compliance with the  
 7213 Florida Building Code. If the local building code administrator  
 7214 or inspector finds that the plans are not in compliance with the  
 7215 Florida Building Code, the local building code administrator or  
 7216 inspector shall identify the specific plan features that do not  
 7217 comply with the applicable codes, identify the specific code  
 7218 chapters and sections upon which the finding is based, and  
 7219 provide this information to the local enforcing agency. The  
 7220 local enforcing agency shall provide this information to the  
 7221 permit applicant. In addition, an enforcing agency may not issue  
 7222 any permit for construction, erection, alteration, modification,  
 7223 repair, or demolition of any building until the appropriate

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7224 firesafety inspector certified pursuant to s. 633.216 ~~633.091~~  
 7225 has reviewed the plans and specifications required by the  
 7226 Florida Building Code, or local amendment thereto, for such  
 7227 proposal and found that the plans comply with the Florida Fire  
 7228 Prevention Code and the Life Safety Code. Any building or  
 7229 structure which is not subject to a firesafety code shall not be  
 7230 required to have its plans reviewed by the firesafety inspector.  
 7231 Any building or structure that is exempt from the local building  
 7232 permit process may not be required to have its plans reviewed by  
 7233 the local building code administrator. Industrial construction  
 7234 on sites where design, construction, and firesafety are  
 7235 supervised by appropriate design and inspection professionals  
 7236 and which contain adequate in-house fire departments and rescue  
 7237 squads is exempt, subject to local government option, from  
 7238 review of plans and inspections, providing owners certify that  
 7239 applicable codes and standards have been met and supply  
 7240 appropriate approved drawings to local building and firesafety  
 7241 inspectors. The enforcing agency shall issue a permit to  
 7242 construct, erect, alter, modify, repair, or demolish any  
 7243 building or structure when the plans and specifications for such  
 7244 proposal comply with the provisions of the Florida Building Code  
 7245 and the Florida Fire Prevention Code and the Life Safety Code as  
 7246 determined by the local authority in accordance with this  
 7247 chapter and chapter 633.  
 7248 (12) One-family and two-family detached residential  
 7249 dwelling units are not subject to plan review by the local fire  
 7250 official as described in this section or inspection by the local  
 7251 fire official as described in s. 633.216 ~~633.091~~, unless

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7252 expressly made subject to said plan review or inspection by  
 7253 local ordinance.  
 7254 Section 133. Paragraph (d) of subsection (1) of section  
 7255 590.02, Florida Statutes, is amended to read:  
 7256 590.02 Florida Forest Service; powers, authority, and  
 7257 duties; liability; building structures; Florida Center for  
 7258 Wildfire and Forest Resources Management Training.—  
 7259 (1) The Florida Forest Service has the following powers,  
 7260 authority, and duties:  
 7261 (d) To appoint center managers, forest area supervisors,  
 7262 forestry program administrators, a forest protection bureau  
 7263 chief, a forest protection assistant bureau chief, a field  
 7264 operations bureau chief, deputy chiefs of field operations,  
 7265 district managers, forest operations administrators, senior  
 7266 forest rangers, investigators, forest rangers, firefighter  
 7267 rotorcraft pilots, and other employees who may, at the Florida  
 7268 Forest Service's discretion, be certified as forestry  
 7269 firefighters pursuant to s. 633.408(7) ~~633.354~~. Other  
 7270 provisions of law notwithstanding, center managers, district  
 7271 managers, forest protection assistant bureau chief, and deputy  
 7272 chiefs of field operations shall have Selected Exempt Service  
 7273 status in the state personnel designation;  
 7274 Section 134. Subsection (10) of section 893.13, Florida  
 7275 Statutes, is amended to read:  
 7276 893.13 Prohibited acts; penalties.—  
 7277 (10) If a person violates any provision of this chapter  
 7278 and the violation results in a serious injury to a state or  
 7279 local law enforcement officer as defined in s. 943.10,

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7280 firefighter as defined in s. 633.102 ~~633.30~~, emergency medical  
 7281 technician as defined in s. 401.23, paramedic as defined in s.  
 7282 401.23, employee of a public utility or an electric utility as  
 7283 defined in s. 366.02, animal control officer as defined in s.  
 7284 828.27, volunteer firefighter engaged by state or local  
 7285 government, law enforcement officer employed by the Federal  
 7286 Government, or any other local, state, or Federal Government  
 7287 employee injured during the course and scope of his or her  
 7288 employment, the person commits a felony of the third degree,  
 7289 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
 7290 If the injury sustained results in death or great bodily harm,  
 7291 the person commits a felony of the second degree, punishable as  
 7292 provided in s. 775.082, s. 775.083, or s. 775.084.  
 7293 Section 135. Paragraph (g) of subsection (2) of section  
 7294 934.03, Florida Statutes, is amended to read:  
 7295 934.03 Interception and disclosure of wire, oral, or  
 7296 electronic communications prohibited.—  
 7297 (2)  
 7298 (g) It is lawful under ss. 934.03-934.09 for an employee  
 7299 of:  
 7300 1. An ambulance service licensed pursuant to s. 401.25, a  
 7301 fire station employing firefighters as defined by s. 633.102  
 7302 ~~633.30~~, a public utility, a law enforcement agency as defined by  
 7303 s. 934.02(10), or any other entity with published emergency  
 7304 telephone numbers;  
 7305 2. An agency operating an emergency telephone number "911"  
 7306 system established pursuant to s. 365.171; or  
 7307 3. The central abuse hotline operated pursuant to s.

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7308 39.201  
 7309 to intercept and record incoming wire communications; however,  
 7310 such employee may intercept and record incoming wire  
 7311 communications on designated "911" telephone numbers and  
 7312 published nonemergency telephone numbers staffed by trained  
 7313 dispatchers at public safety answering points only. It is also  
 7314 lawful for such employee to intercept and record outgoing wire  
 7315 communications to the numbers from which such incoming wire  
 7316 communications were placed when necessary to obtain information  
 7317 required to provide the emergency services being requested. For  
 7318 the purpose of this paragraph, the term "public utility" has the  
 7319 same meaning as provided in s. 366.02 and includes a person,  
 7320 partnership, association, or corporation now or hereafter owning  
 7321 or operating equipment or facilities in the state for conveying  
 7322 or transmitting messages or communications by telephone or  
 7323 telegraph to the public for compensation.  
 7324 Section 136. Paragraph (b) of subsection (4) of section  
 7325 943.61, Florida Statutes, is amended to read:  
 7326 943.61 Powers and duties of the Capitol Police.—  
 7327 (4) The Capitol Police shall have the following  
 7328 responsibilities, powers, and duties:  
 7329 (b) To provide and maintain the security of all property  
 7330 located in the Capitol Complex in a manner consistent with the  
 7331 security plans developed and approved under paragraph (a) and,  
 7332 in consultation with the State Fire Marshal, to provide for  
 7333 evacuations, information, and training required for firesafety  
 7334 on such property in a manner consistent with s. 633.218 ~~633.005~~.

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7336 Section 137. Paragraph (b) of subsection (18) of section  
 7337 1002.33, Florida Statutes, is amended to read:  
 7338 1002.33 Charter schools.—  
 7339 (18) FACILITIES.—  
 7340 (b) A charter school shall utilize facilities that comply  
 7341 with the Florida Fire Prevention Code, pursuant to s. 633.208  
 7342 ~~633.025~~, as adopted by the authority in whose jurisdiction the  
 7343 facility is located as provided in paragraph (a).  
 7344 Section 138. Subsection (9) of section 1002.34, Florida  
 7345 Statutes, is amended to read:  
 7346 1002.34 Charter technical career centers.—  
 7347 (9) FACILITIES.—A center may be located in any suitable  
 7348 location, including part of an existing public school or Florida  
 7349 College System institution building, space provided on a public  
 7350 worksite, or a public building. A center's facilities must  
 7351 comply with the State Uniform Building Code for Public  
 7352 Educational Facilities Construction adopted pursuant to s.  
 7353 1013.37, or with applicable state minimum building codes  
 7354 pursuant to chapter 553, and state minimum fire protection codes  
 7355 pursuant to s. 633.208 ~~633.025~~, adopted by the authority in  
 7356 whose jurisdiction the facility is located. If K-12 public  
 7357 school funds are used for construction, the facility must remain  
 7358 on the local school district's Florida Inventory of School  
 7359 Houses (FISH) school building inventory of the district school  
 7360 board and must revert to the district school board if the  
 7361 consortium dissolves and the program is discontinued. If Florida  
 7362 College System institution public school funds are used for  
 7363 construction, the facility must remain on the local Florida

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7364 College System institution's facilities inventory and must  
 7365 revert to the local Florida College System institution board of  
 7366 trustees if the consortium dissolves and the program is  
 7367 discontinued. The additional student capacity created by the  
 7368 addition of the center to the local school district's FISH may  
 7369 not be calculated in the permanent student capacity for the  
 7370 purpose of determining need or eligibility for state capital  
 7371 outlay funds while the facility is used as a center. If the  
 7372 construction of the center is funded jointly by K-12 public  
 7373 school funds and Florida College System institution funds, the  
 7374 sponsoring entities must agree, before granting the charter, on  
 7375 the appropriate owner and terms of transfer of the facility if  
 7376 the charter is dissolved.  
 7377 Section 139. Subsection (1), paragraph (c) of subsection  
 7378 (2), paragraphs (a) and (c) of subsection (6), and subsection  
 7379 (8) of section 1013.12, Florida Statutes, are amended to read:  
 7380 1013.12 Casualty, safety, sanitation, and firesafety  
 7381 standards and inspection of property.—  
 7382 (1) FIRESAFETY.—The State Board of Education shall adopt  
 7383 and administer rules prescribing standards for the safety and  
 7384 health of occupants of educational and ancillary plants as a  
 7385 part of State Requirements for Educational Facilities or the  
 7386 Florida Building Code for educational facilities construction as  
 7387 provided in s. 1013.37, except that the State Fire Marshal in  
 7388 consultation with the Department of Education shall adopt  
 7389 uniform firesafety standards for educational and ancillary  
 7390 plants and educational facilities, as provided in s.  
 7391 633.206(1)(b) ~~633.022(1)(b)~~, and a firesafety evaluation system

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7420 of State Fire Marshal under s. 633.216 ~~633.001~~ to conduct  
 7421 firesafety inspections in public educational and ancillary  
 7422 plants. The board shall submit a copy of the firesafety  
 7423 inspection report to the county, municipality, or independent  
 7424 special fire control district providing fire protection services  
 7425 to the school facility within 10 business days after the date of  
 7426 the inspection. Alternate schedules for delivery of reports may  
 7427 be agreed upon between the school district and the county,  
 7428 municipality, or independent special fire control district  
 7429 providing fire protection services to the site in cases in which  
 7430 delivery is impossible due to hurricanes or other natural  
 7431 disasters. Regardless, if immediate life-threatening  
 7432 deficiencies are noted in the report, the report shall be  
 7433 delivered immediately. In addition, the board and any other  
 7434 authority conducting the fire safety inspection shall certify to  
 7435 the State Fire Marshal that the annual inspection has been  
 7436 completed. The certification shall be made electronically or by  
 7437 such other means as directed by the State Fire Marshal.  
 7438 (6) INSPECTIONS OF PUBLIC POSTSECONDARY EDUCATION  
 7439 FACILITIES.—  
 7440 (a) Firesafety inspections of public college facilities,  
 7441 including charter schools located on board-owned or board-leased  
 7442 facilities or otherwise operated by public college boards, shall  
 7443 be made in accordance with the Florida Fire Prevention Code, as  
 7444 adopted by the State Fire Marshal. Notwithstanding s. 633.202  
 7445 ~~633.0215~~, provisions of the code relating to inspections of such  
 7446 facilities are not subject to any local amendments as provided  
 7447 by s. 1013.371. Each public college facility shall be inspected

7392 to be used as an alternate firesafety inspection standard for  
 7393 existing educational and ancillary plants and educational  
 7394 facilities. The uniform firesafety standards and the alternate  
 7395 firesafety evaluation system shall be administered and enforced  
 7396 by fire officials certified by the State Fire Marshal under s.  
 7397 633.216 ~~633.001~~. These standards must be used by all public  
 7398 agencies when inspecting public educational and ancillary  
 7399 plants, and the firesafety standards must be used by county,  
 7400 municipal, or independent special fire control district  
 7401 inspectors when performing firesafety inspections of public  
 7402 educational and ancillary plants and educational facilities. In  
 7403 accordance with such standards, each board shall prescribe  
 7404 policies and procedures establishing a comprehensive program of  
 7405 safety and sanitation for the protection of occupants of public  
 7406 educational and ancillary plants. Such policies must contain  
 7407 procedures for periodic inspections as prescribed in this  
 7408 section or chapter 633 and for withdrawal of any educational and  
 7409 ancillary plant, or portion thereof, from use until unsafe or  
 7410 unsanitary conditions are corrected or removed.  
 7411 (2) PERIODIC INSPECTION OF PROPERTY BY DISTRICT SCHOOL  
 7412 BOARDS.—  
 7413 (c) Under the direction of the fire official appointed by  
 7414 the board under s. 1013.371(2), firesafety inspections of each  
 7415 educational and ancillary plant located on property owned or  
 7416 leased by the board, or other educational facilities operated by  
 7417 the board, must be made no sooner than 1 year after issuance of  
 7418 a certificate of occupancy and annually thereafter. Such  
 7419 inspections shall be made by persons certified by the Division



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7448 annually by persons certified under s. 633.216 ~~633-001~~.

7449 (c) Firesafety inspections of state universities shall

7450 comply with the Florida Fire Prevention Code, as adopted by the

7451 State Fire Marshal under s. 633.202 ~~633-0215~~.

7452 (8) ADDITIONAL STANDARDS.—In addition to any other rules

7453 adopted under this section or s. 633.206 ~~633-022~~, the State Fire

7454 Marshal in consultation with the Department of Education shall

7455 adopt and administer rules prescribing the following standards

7456 for the safety and health of occupants of educational and

7457 ancillary plants:

7458 (a) The designation of serious life-safety hazards,

7459 including, but not limited to, nonfunctional fire alarm systems,

7460 nonfunctional fire sprinkler systems, doors with padlocks or

7461 other locks or devices that preclude egress at any time,

7462 inadequate exits, hazardous electrical system conditions,

7463 potential structural failure, and storage conditions that create

7464 a fire hazard.

7465 (b) The proper placement of functional smoke and heat

7466 detectors and accessible, unexpired fire extinguishers.

7467 (c) The maintenance of fire doors without doorstops or

7468 wedges improperly holding them open.

7469 Section 140. Paragraphs (a), (b), and (d) of subsection

7470 (2) and paragraph (a) of subsection (4) of section 1013.38,

7471 Florida Statutes, are amended to read:

7472 1013.38 Boards to ensure that facilities comply with

7473 building codes and life safety codes.—

7474 (2) In addition to the submission of site plans, boards

7475 may provide compliance as follows:

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7476 (a) Boards or consortia may individually or cooperatively

7477 provide review services under the insurance risk management

7478 oversight through the use of board employees or consortia

7479 employees registered pursuant to chapter 471, chapter 481, or

7480 part XII of chapter 468 and firesafety inspectors certified

7481 under s. 633.216 ~~633-001~~.

7482 (b) Boards may elect to review construction documents

7483 using their own employees registered pursuant to chapter 471,

7484 chapter 481, or part XII of chapter 468 and firesafety

7485 inspectors certified under s. 633.216 ~~633-001~~.

7486 (d) Boards or consortia may contract for plan review

7487 services directly with engineers and architects registered

7488 pursuant to chapter 471 or chapter 481 and firesafety inspectors

7489 certified under s. 633.216 ~~633-001~~.

7490 (4) (a) Before the commencement of any new construction,

7491 renovation, or remodeling, the board shall:

7492 1. Approve or cause to be approved the construction

7493 documents and evaluate such documents for compliance with the

7494 Florida Building Code and the Florida Fire Prevention Code.

7495 2. Ensure compliance with all applicable firesafety codes

7496 and standards by contracting with a firesafety inspector

7497 certified by the State Fire Marshal under s. 633.216 ~~633-001~~.

7498 Section 141. This act shall take effect July 1, 2013.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 913 Holocaust Victims Assistance Act  
**SPONSOR(S):** Bileca and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 936

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	11 Y, 0 N	Vanlandingham	Cooper
2) Regulatory Affairs Committee		Vanlandingham	<sup>SCV</sup> Hamon <i>K.W.H.</i>

### SUMMARY ANALYSIS

In 1998, the Florida Legislature enacted the Holocaust Victims Insurance Act to provide several forms of relief for Holocaust survivors and their families. The legislation authorized the Florida Department of Financial Services (DFS) to assist Holocaust survivors and their families in recovery of proceeds from insurance policies issued to victims of the Holocaust.

Since 1998, more than 5,269 claims from Florida residents have been processed through the International Commission on Holocaust Era Insurance Claims (ICHEIC), the German Foundation, and the Austrian General Settlement Fund. Combined, Florida residents to date have received positive decisions totaling \$17,167,682, resulting in payments of more than \$12,000,000.

DFS has a toll-free line dedicated to this mission, as well as one FTE who works with five Jewish service organizations which have contracts to reach out to survivors and assist them with claims. Recently, however, the number of calls fielded by DFS has dwindled to about 100 per year as Holocaust survivors have died and as relevant insurance claims have been collected.

HB 913 permits DFS to expand its assistance to Holocaust survivors beyond recovery of insurance claims to include seeking restitution for Nazi-confiscated bank accounts, art, and other property or assets. This change permits DFS to explore several new sources of restitution for Holocaust survivors whose property was seized by Nazi governments or collaborators.

Additionally, the bill clarifies that the education of Holocaust survivors as to the existence of the restitution program, the availability of restitution monies, the appropriate procedural steps to be followed for the recovery of such proceeds, and their rights under this process, are all part of the restitution program overseen by DFS. DFS expects that the bill, aided by its outreach efforts to alert survivors about its expanded services, will increase volume to its existing toll-free hotline and lead to increased assistance to more survivors.

The bill has no new fiscal impact on state government.

The legislation has an effective date of July 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background on current efforts to assist Holocaust survivors**

In 1998, the Florida Legislature enacted the Holocaust Victims Insurance Act to provide several forms of relief for Holocaust survivors and their families.<sup>1</sup> The legislation authorized the Florida Department of Financial Services (DFS) to assist Holocaust survivors and their families in recovery of proceeds from insurance policies issued to victims of the Holocaust. Current law also requires insurers who do business in Florida to report yearly on the status of all past and present Holocaust insurance claims.<sup>2</sup>

DFS's Division of Legal Services estimates there are between 14,000 and 16,000 Holocaust survivors or survivor beneficiaries residing in Florida. Since the Legislature directed DFS in 1998 to assist Holocaust victims in recovering claims, more than 5,269 claims from Florida residents have been processed through the International Commission on Holocaust Era Insurance Claims (ICHEIC), the German Foundation, and the Austrian General Settlement Fund. Humanitarian payments of \$1,000 have also been received by 1,549 Florida residents, totaling \$1,549,000. In addition, ICHEIC distributed more than \$329,000 to Florida residents for payments on policies for companies that are no longer in existence. Combined, Florida residents to date have received positive decisions totaling \$17,167,682, resulting in payments of more than \$12,000,000.

DFS has a toll-free line dedicated to this mission, as well as one FTE who works with five Jewish service organizations which have contracts with DFS to reach out to survivors and assist them with claims. Together, these organizations contact about 1,000 survivors a year and assist them in identifying and perfecting insurance claims, resulting in about 800 such applications a year. DFS also has contracts for educational components of the program with the Holocaust Documentation & Education Center, in Hollywood, Fla., and with the Holocaust Memorial Resource and Education Center of Florida, in Maitland.

Today, DFS is fielding about 100 calls a year to its toll-free hotline. This number has dwindled in recent years as Holocaust survivors have died and as relevant insurance claims have been collected. Capacity thus exists to expand services provided to Florida residents who are Holocaust survivors without incurring any new fiscal impact to DFS.

##### **Effect of HB 913**

The bill permits DFS to expand its assistance to Holocaust survivors beyond recovery of insurance claims to include seeking restitution for Nazi-confiscated bank accounts, art, and other property or assets. This change permits DFS to explore new sources of restitution for Holocaust survivors, such as:

- Austrian National Fund for Victims of National Socialism and the General Settlement Fund, Austria;
- Claims Resolution Tribunal, Switzerland;
- Commission for the Compensation of Victims of Spoliation, France;
- The Company for Locating and Retrieving Assets of People Who were Killed in the Holocaust, Ltd., Israel;
- Enemy Property Claims Assessment Panel, London;
- Foreign Claims Settlement Commission, United States;

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<sup>1</sup> Chapter 98-173, Laws of Fla., codified at § 626.9543, F.S.

<sup>2</sup> Section 626.9543(7), F.S.

- French Minister of Defense, France;
- German Federal Office for Central Services and Unresolved Property Issues, Germany;
- Goodwill Fund, Germany; and
- Commission for Looted Art in Europe.

Additionally, the bill clarifies that the education of Holocaust survivors as to the existence of the restitution program, the availability of restitution monies, the appropriate procedural steps to be followed for the recovery of such proceeds, and their rights under this process, are all necessarily part of an effective restitution program. DFS expects that the bill, aided by its outreach efforts to alert survivors about its expanded services, will increase volume to its existing toll-free hotline and lead to increased assistance to more survivors.

Finally, the bill clarifies that insurers who do business in Florida, all of which are already required to report annually on the status of past and present Holocaust insurance claims, are also required timely to file a new report if there are any changes to a previous report and are further required, upon request by DFS, to provide any information necessary to substantiate the accuracy of such reports.

**B. SECTION DIRECTORY:**

**Section 1.** Amends s. 626.9543, F.S., to grant DFS new authority to expand its assistance to Holocaust victims to seek restitution for Nazi-confiscated property.

**Section 2.** Establishes an effective date of July 1, 2013.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:  
None.
2. Expenditures:  
None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:  
None.
2. Expenditures:  
None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or, reduce the percentage of a state tax shared with counties or municipalities.

##### 2. Other:

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1                   A bill to be entitled  
 2           An act relating to the Holocaust Victims Assistance  
 3           Act; amending s. 626.9543, F.S.; revising the short  
 4           title; broadening the act to include financial claims  
 5           and assets and other property, and to address the  
 6           effect of nonpayment of claims or nonreturn of  
 7           property on victims; deleting a time limitation on  
 8           insurers for providing certain information to the  
 9           Department of Financial Services and requiring  
 10          insurers to provide a report under certain  
 11          circumstances; revising the content and timing of the  
 12          annual report to the Legislature; providing an  
 13          effective date.

14  
 15 Be It Enacted by the Legislature of the State of Florida:

16  
 17           Section 1. Subsections (1) through (4), (7), (8), and (11)  
 18 of section 626.9543, Florida Statutes, are amended to read:

19           626.9543 Holocaust victims.—

20           (1) SHORT TITLE.—This section may be cited as the  
 21 "Holocaust Victims Assistance ~~Insurance~~ Act."

22           (2) INTENT; PURPOSE.—It is the Legislature's intent that  
 23 the potential and actual insurance claims, actual financial  
 24 claims, and the assets and property of Holocaust victims and  
 25 their heirs and beneficiaries be expeditiously identified and  
 26 properly paid, compensated, or returned. The Legislature also  
 27 intends ~~and~~ that Holocaust victims and their families receive  
 28 appropriate assistance in the filing and payment of their

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29 rightful claims, and in addressing the effects of the nonpayment  
 30 of claims or nonreturn of confiscated assets and property on the  
 31 victims, including assistance with gaining access to funding  
 32 provided to address such effects.

33 (3) DEFINITIONS.—As used in ~~For the purpose of~~ this  
 34 section, the term:

35 (a) "Holocaust victim" means any person who lost his or  
 36 her life or property as a result of discriminatory laws,  
 37 policies, or actions targeted against discrete groups of persons  
 38 between 1920 and 1945, inclusive, in Nazi Germany, areas  
 39 occupied by Nazi Germany, or countries allied with Nazi Germany.

40 (b) "Insurance policy" means, but is not limited to, life  
 41 insurance, property insurance, or education policies.

42 (c) "Legal relationship" means any parent, subsidiary, or  
 43 affiliated company with an insurer doing business in this state.

44 (d) "Proceeds" means the face or other payout value of  
 45 policies, ~~and annuities,~~ or other financial instruments or  
 46 assets, plus reasonable interest to the date of payment ~~payments~~  
 47 without diminution for wartime or immediate postwar currency  
 48 devaluation.

49 (4) ASSISTANCE TO HOLOCAUST VICTIMS.—The department shall  
 50 establish a toll-free telephone number, available in appropriate  
 51 languages, to assist any person seeking to recover insurance  
 52 claims or other financial proceeds or property owed ~~from an~~  
 53 ~~insurance policy issued~~ to a Holocaust victim, and to assist  
 54 through education to mitigate the effects of the nonpayment of  
 55 claims or nonreturn of property on Holocaust survivors.

56 (7) REPORTS FROM INSURERS.—



57        (a) Any insurer doing business in this state has ~~shall~~  
 58 ~~have~~ an affirmative duty to ascertain the following to the  
 59 extent possible and report to the department ~~within 90 days~~  
 60 ~~after the effective date of this section and annually thereafter~~  
 61 all efforts made and the results of such efforts ~~to ascertain~~:

62        1.(a) Any legal relationship with an international insurer  
 63 that issued an insurance policy to a Holocaust victim between  
 64 1920 and 1945, inclusive.

65        2.(b) The number and total value of such policies.

66        3.(c) Any claim filed by a Holocaust victim, his or her  
 67 beneficiary, heir, or descendant that has been paid, denied  
 68 payment, or is pending.

69        4.(d) Attempts made by the insurer to locate the  
 70 beneficiaries of any such policies for which a ~~no~~ claim of  
 71 benefits has not been made.

72        5.(e) An explanation of any denial or pending payment of a  
 73 claim to a Holocaust victim, his or her beneficiary, heir, or  
 74 descendant.

75        (b) Insurers shall timely file a new report if there are  
 76 any changes to the previous report, or if requested to do so by  
 77 the department. Insurers shall timely provide any information  
 78 regarding unpaid Holocaust claims or any information necessary  
 79 to substantiate the accuracy of such reports upon the request of  
 80 the department.

81        (8) REPORTS TO THE LEGISLATURE.—By July 1 of each year,  
 82 the department shall report to the Legislature ~~1 year after the~~  
 83 ~~effective date of this section and annually thereafter~~:

84        (a) The number of insurers doing business in this state

85 | which have a legal relationship with an international insurer  
 86 | that could have issued a policy to a Holocaust victim between  
 87 | 1920 and 1945, inclusive.

88 | (b) A list of all claims paid, denied, or pending to a  
 89 | Holocaust victim, his or her beneficiary, heir, or descendant.

90 | (c) Any efforts made on behalf of Holocaust victims to  
 91 | secure financial reparations or other assistance ~~A summary of~~  
 92 | ~~the length of time for the processing and disposition of a claim~~  
 93 | ~~by the insurer.~~

94 | (11) RULES.—The department, by rule, shall provide for the  
 95 | implementation of ~~the provisions of~~ this section by establishing  
 96 | procedures and related forms for facilitating, monitoring, and  
 97 | verifying compliance with this section and for the establishment  
 98 | of a restitution and assistance program for Holocaust victims,  
 99 | survivors, and their heirs and beneficiaries.

100 | Section 2. This act shall take effect July 1, 2013.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1067 Pugilistic Exhibitions  
**SPONSOR(S):** Hutson and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1686

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professional Regulation Subcommittee	12 Y, 0 N	Collins	Luczynski
2) Government Operations Appropriations Subcommittee	11 Y, 0 N	Topp	Topp
3) Regulatory Affairs Committee		Collins <i>RC</i>	Hamon <i>K.W.H.</i>

### SUMMARY ANALYSIS

The bill amends various provisions of ch. 548, F.S., to make the pugilistic environment safer for both professionals and amateurs.

Specifically, the bill:

- Provides definitions relating to the Florida Boxing Commission (Commission);
- Amends and clarifies the duties and responsibilities to be performed by the executive director of the Commission;
- Eliminates the requirement that the Commission record all of its scheduled proceedings, as the requirement is duplicative;
- Clarifies that the Commission has exclusive jurisdiction over amateur mixed martial arts matches held in the state;
- Creates new exemptions from ch. 548, F.S., and clarifies existing exemptions;
- Provides that the failure or refusal to provide a urine sample, or the positive result of a urine test, results in the immediate suspension of the participant's license;
- Provides that the failure or refusal to provide a urine sample, or the positive result of a urine test, constitutes an "immediate serious danger to the health, safety, and welfare of the participants and the public;"
- Requires the Commission to hold purse forfeiture hearings pursuant to the Administrative Procedure Act;
- Requires that the promoter keep a copy of certain records for a period of seven years;
- Provides that compliance with the requirements outlined in s. 548.06, F.S., is subject to verification by Department or Commission audit and that the Commission has the right to audit a promoter's books and records, upon reasonable notice;
- Directs the Commission to adopt rules to establish a procedure for auditing a promoter's records and for resolving any inconsistencies revealed in the audit;
- Directs the Commission to establish rules for imposing late fees in the event of taxes owed;
- Provides an emergency license suspension procedure; and
- Provides that all hearings held under ch. 548, F.S., be held in accordance with the Administrative Procedure Act.

The bill is not anticipated to have a fiscal impact on state expenditures. However, the bill directs the Commission to adopt a rule imposing a late fee on taxes owed the Commission. The Commission estimates that less than \$7,000 in revenue would be collected annually from imposing a late fee.

The bill has an effective date of July 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### *Generally*

The Florida State Boxing Commission (hereinafter "Commission"), within the Department of Business and Professional Regulation (hereinafter "Department"), regulates professional boxing, kickboxing, and mixed martial arts.<sup>1</sup> The mission of the Commission is to provide "customer-focused services related to the boxing industry in Florida in order to protect the health and welfare of boxers and to maintain the integrity of the sport."<sup>2</sup> Specifically, the Commission approves and establishes safety standards for the approval of amateur sanctioning organizations.<sup>3</sup>

The Commission is appointed by the Governor, and consists of five members.<sup>4</sup> It collects revenue via licenses, live event permit fees, and taxation on gross receipts associated with live events in the state.<sup>5</sup>

##### *Definitions*

##### **Current Situation**

Section 548.002, F.S., sets forth various definitions that apply to ch. 548, F.S. Of these definitions, several are either ambiguous or are outdated in that they do not reflect current industry standards.

##### **Effect of Proposed Change**

The bill amends provisions of s. 548.002, F.S., to define or redefine the terms: "boxing," "concessions," "face value," "full contact," "kickboxing," "mixed martial arts," and "physician."

- "Boxing" is defined as the practice of fighting with the fists as a sport.
- "Concessions" is defined as souvenirs, programs, drinks, food, alcohol, clothing, or other tangible objects sold to the general public during matches.
- "Face value" is defined as the dollar value of a ticket which is equal to the dollar amount that a customer is required to pay or, for complimentary tickets, would have been required to pay to purchase a ticket with equivalent seating priority in order to view the event. If the ticket specifies the amount of admission charges attributable to state or federal taxes, such taxes shall not be included in the face value.
- "Full contact" is defined as the use of blows and strikes during a match or bout that: 1) are intended to break the plane of the receiving participant's body, 2) are delivered to the head, face, neck, or body of the receiving participant, and 3) cause the receiving participant to move in response to the blow or strike.
- "Kickboxing" is defined as the practice of fighting with the fists, hands, feet, legs, or any combination thereof as a sport, and includes "punchkick" and other similar competitions.
- "Mixed martial arts" is defined as full contact, unarmed combat involving the use of a combination of two or more techniques, including, but not limited to, wrestling, grappling,

<sup>1</sup> Department of Business and Professional Regulation Internal Audit Report A-1213-BPR-009, dated November 29, 2012, page 1, on file with subcommittee.

<sup>2</sup> Id.

<sup>3</sup> Department of Business and Professional Regulation Agency Analysis, page 2, dated March 7, 2013, on file with subcommittee.

<sup>4</sup> Section 548.003(1), Florida Statutes.

<sup>5</sup> Department of Business and Professional Regulation Internal Audit Report A-1213-BPR-009, dated November 29, 2012, page 2, on file with subcommittee.

kicking, and striking, from different disciplines of the martial arts, including, but not limited to, boxing, kickboxing, muay Thai, and Thai boxing.

- “Physician” is defined as a person licensed as a medical doctor or doctor of osteopathy.

Providing definitions or redefining definitions helps to clarify legislative intent, and to conform the chapter to current industry standards.

### *Duties of the Executive Director*

#### **Current Situation**

Currently, s. 548.004(1), F.S., stipulates the duties and responsibilities required to be performed by the executive director of the Commission. Specifically, the executive director must:

- Keep a record of all proceedings of the Commission;
- Preserve all books, papers, and documents pertaining to the business of the Commission;
- Prepare any notices and papers required;
- Appoint judges, referees, and other officials as delegated by the Commission and pursuant to ch. 548, F.S., and the rules of the Commission; and
- Perform any other duties as the Department or Commission directs.

#### **Effect of Proposed Changes**

The bill amends s. 548.004(1), F.S., to amend the duties and responsibilities to be performed by the executive director of the Commission, as set forth by the Commission. Pursuant to the provisions of the bill, the executive director must:

- Conduct the functions of the commission office;
- Appoint event and commission officials;
- Approve licenses, permits, matches, and fight cards; and
- Perform other duties as the Department or Commission deems necessary.

This language is meant to revise and clearly set forth the authority by which the executive director may act while conducting the business of the Commission.

### *Electronic Recording of Commission Proceedings*

#### **Current Situation**

Currently, s. 548.004(2), F.S., requires that the Commission electronically record all of its scheduled proceedings. This requirement is duplicative, as s. 455.203(7), F.S., requires that all proceedings conducted by the Department be electronically recorded.

#### **Effect of Proposed Changes**

The bill amends s. 548.004(2), F.S., to eliminate the requirement that the Commission record all of its scheduled proceedings. As stated above, the requirement is already codified in ch. 455, F.S.

### *Mixed Martial Arts Matches*

## **Current Situation**

Section 548.006(3), F.S., provides the Commission with exclusive jurisdiction over the approval, disapproval, suspension of approval, and revocation of approval of all amateur sanctioning organizations for amateur boxing and kickboxing matches held within the state.

In 2009, ch. 548, F.S., was amended to include amateur mixed martial arts within the Commission's exclusive jurisdiction; however, the reference to "mixed martial arts" was inadvertently omitted from s. 548.006(3), F.S., which defines the scope of the Commission's jurisdiction.

## **Effect of Proposed Changes**

The bill amends 548.006(3), F.S., to clarify that the Commission has exclusive jurisdiction over amateur mixed martial arts matches held in the state. As with boxing and kickboxing, this jurisdiction provides the Commission with oversight over the approval, disapproval, suspension of approval, and revocation of approval of all amateur sanctioning organizations for mixed martial arts matches held in Florida.

Nothing in the bill affects the Commission's exclusive jurisdiction over amateur sanctioning organizations for amateur boxing and kickboxing matches held within the state.

*Exemptions from Ch. 548, F.S.*

## **Current Situation**

Presently, s. 548.007, F.S., provides that ch. 548, F.S., does not apply to:

- A match conducted or sponsored by a bona fide non-profit school or education program whose primary purpose is instruction in martial arts, boxing, or kickboxing if the match is held in conjunction with the instruction, and is limited to amateur participants who are students of the school or instructional program;
- A match conducted or sponsored by any company or detachment of the Florida National Guard, if the match is limited to participants who are members of the Florida National Guard; or
- A match conducted or sponsored by the Fraternal Order of Police, if the match is limited to amateur participants and is held in conjunction with a charitable event.

## **Effect of Proposed Changes**

The bill amends ss. 548.007(2) and 548.007(3), F.S., to clarify that ch. 548, F.S., does not apply to amateurs in those matches.

In addition, the bill creates new exemptions from ch. 548, F.S. Such new exemptions include:

- A match that does not allow full contact, if the match is limited to amateurs;
- A match conducted by a public post-secondary education institution or school, if the match is limited to amateurs who 1) are students enrolled in the institution or school, and 2) are members of a school-sponsored boxing club or team;
- A match conducted by or between companies or detachments of the U.S. Armed Forces, if the match is limited to amateurs who are members of the U.S. Armed Forces;
- A match conducted by the International Olympic Committee, the International Paralympic Committee, the Special Olympics, or the Junior Olympics, if the match is limited to amateurs who are competing in or attempting to qualify for the Olympics, Paralympics, Special Olympics, or Junior Olympics; or
- A professional or amateur "martial arts activity."

The bill defines "martial arts activity," as it applies in s. 548.007(7), F.S., as one of the traditional forms of self-defense or unarmed combat involving the use of physical skill and coordination that are taught and advanced on a belt system, including, but not limited to, karate, aikido, judo, and kung fu. The term does not include "mixed martial arts."

The bill eliminates the exemption found in s. 548.007(1), F.S., which relates to a bona fide non-profit school or education program whose primary purpose is instruction in the martial arts, boxing, or kickboxing, if the match held, in conjunction with the instruction, is limited to amateur participants who are students of the school or instructional program. Instead, that exemption is replaced by s. 548.007(7), F.S., which encompasses a larger group of businesses and individuals.

### *Revocation & Suspension Procedures*

#### **Current Situation**

Section 548.046(3)(c), F.S., provides that the failure or refusal to provide a urine sample, immediately upon request, results in the revocation of the participant's license. There is no process for the aggrieved licensee to petition the Commission for a hearing to review the license revocation.

Article I, Section 9 of the Florida Constitution provides that "[n]o person shall be deprived of life, liberty or property without due process of law..." Specifically, substantive due process protects a person's property from unfair governmental interference, unwarranted encroachment or taking. The test to be applied in determining whether a statute violates due process is whether the statute bears a rational relation to a legitimate legislative purpose in safeguarding the public health, safety, or general welfare, and is not discriminatory, arbitrary or oppressive.<sup>6</sup>

As stated above, this process of license revocation, which is generally considered a form of property, does not require a review or redress process. As a result, a court may find that the licensee is being deprived of his or her property without due process of law- a hearing prior to the revocation. Moreover, it is unclear whether a court would find that the revocation is rationally related to protecting the public's health, safety, or general welfare. As such, the revocation, without a prior hearing, may be a violation of the licensee's constitutional right to due process.

#### **Effect of Proposed Changes**

The bill amends 548.046(3)(c), F.S., to provide that the failure or refusal to provide a urine sample, immediately upon request, results in the immediate suspension of the participant's license, rather than a revocation of that license. Moreover, the failure or refusal constitutes grounds for additional disciplinary action. Finally, the failure or refusal constitutes an "immediate serious danger to the health, safety, and welfare of the participants and the public."

Moreover, the bill creates s. 548.046(3)(d), F.S., to provide that a licensee who tests positive for any of the prohibited substances designated by the Commission<sup>7</sup> has committed an "immediate serious danger to the health, safety, and welfare of the participants and the generally public." As such, the positive test results in the immediate suspension of the participant's license, and constitutes grounds for additional disciplinary action.

The bill further amends s. 548.07, F.S., to set forth the procedure to be followed in the event of an immediate license suspension. Specifically, the Commission, any commissioner or his or her designee,

<sup>6</sup> Chicago Title Ins. Co. v. Butler, 770 So. 2d 1210, 1214-15 (Fla. 2000).

<sup>7</sup> See, generally: 61K1-1.0043, Florida Administrative Code.



or the executive director or his or her designee may issue an emergency suspension of license order to any person who is licensed under ch. 548, F.S., and who poses an "immediate serious danger to the health, safety, and welfare of the participants and the general public." The fact that the licensee poses an immediate, serious danger likely necessitates the suspension prior to a hearing, so long as a hearing is promptly provided after the suspension.

The bill provides that the Department's Office of General Counsel is required to review the grounds for each emergency suspension order issued, and must file an administrative complaint against the licensee within twenty-one days after the issuance of the emergency suspension order. Service of the administrative complaint must be pursuant to the procedures set forth in s. 455.275, F.S., which is the standard process used by the Department when processing disciplinary complaints.<sup>8</sup> Following service, the disciplinary process must proceed in accordance with the Administrative Procedure Act.<sup>9</sup>

With this procedure, a court is more likely to find that the emergency suspension procedure is not violative of the licensees' due process right, as the emergency suspension is seemingly rationally related to safeguarding public health, safety, or general welfare, as the use of drugs in one of more of the participants is likely a danger to the health and/or safety of either the drug-using participant or his or her opponent. Moreover, within twenty-one days after the suspension, the licensee is provided a hearing process in order to petition the Commission.

### *Withholding of Purses*

#### **Current Situation**

Section 548.054, F.S., provides the procedure to be followed in the event that a prize purse is withheld. Specifically, a member of the Commission, a Commission representative, or the referee may order a promoter to surrender any purse or other funds payable to a participant if it appears that:

- The participant is not competing honestly, or is intentionally not competing to the best of his or her ability and skill in a match represented to be a contest; or
- The participant, his or her manager, or any of the participant's seconds has violated Ch. 548, F.S.<sup>10</sup>

In the event that a purse is withheld, the purse must be delivered to the Commission by the promoter.<sup>11</sup> Within ten days after the match, the person from whom the sum was withheld may apply to the Commission for a hearing, in writing.<sup>12</sup> Upon receipt of the application, the Commission must set the date for a hearing; within ten days after the hearing or after ten days following the match, if no application for a hearing is filed, the Commission is required to meet and determine the disposition to be made off the withheld purse.<sup>13</sup>

If the Commission finds the charges sufficient, it may decide that all or a part of the funds be forfeited.<sup>14</sup> Conversely, if the Commission does not find the charges sufficient, it must distribute the withheld funds immediately.<sup>15</sup>

The Department has indicated that this current language is vague and does not provide appropriate procedure or rulemaking authority to create a procedure that provides appropriate due process rights.<sup>16</sup>

<sup>8</sup> Department of Business and Professional Regulation Agency Analysis, page 3, dated March 7, 2013, on file with subcommittee.

<sup>9</sup> See, generally: ch. 120, Florida Statutes

<sup>10</sup> Section 548.054(1), Florida Statutes.

<sup>11</sup> Section 548.054(2), Florida Statutes.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> Department of Business and Professional Regulation Agency Analysis, page 2, dated March 7, 2013, on file with subcommittee.

### **Effect of Proposed Changes**

The bill amends s. 548.054, F.S., provide that within ten days after the match, a person who has had a purse withheld is entitled to submit a petition for a hearing to the Commission.

Additionally, the bill requires the Commission to hold the hearing pursuant to ss. 120.569 and 120.57, F.S., of the Administrative Procedure Act. This clarifies and ensures that the purse forfeiture hearing is held pursuant to the licensee's constitutionally-protected right of due process.

### *Calculation of "Gross Receipts"*

#### **Current Situation**

Presently, within seventy-two hours after a match, the promoter of that match must file a written report with the Commission.<sup>17</sup> The report must include information about the number of tickets sold, the amount of gross receipts, and any other facts that the Commission requires.<sup>18</sup>

For the purposes of ch. 548, F.S., "gross receipts" is defined as:

- The gross price charged for the sale or lease of broadcasting, television, and motion picture rights without any deductions for commissions, brokerage fees, distribution fees, advertising or other expenses or charges;
- The portion of the receipts from the sale of souvenirs, programs, and other concessions received by the promoter;
- The face value of all tickets sold and complimentary tickets issued, provided, or given; and
- The face value of any seat or seating issued, provided, or given in exchange for advertising sponsorships, or anything of value to the promotion of an event.

The Department has indicated that the current definition has led to some confusion in the industry, as licensees are not sure whether to include state and federal taxes within the face value of a ticket.<sup>19</sup>

### **Effect of Proposed Changes**

The bill amends s. 548.06(1)(c), F.S., to deduct federal and state taxes, if applicable, from the face value of tickets sold and complimentary tickets that were issued or given, for the purpose of calculating gross receipts.

This change is meant to clarify existing law.

### *Promoter Records*

#### **Current Situation**

As discussed above, within seventy-two hours after a match, the promoter of that match must file a written report with the Commission, which includes information about the number of tickets sold, the amount of gross receipts, and any other facts that the Commission requires.<sup>20</sup>

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<sup>17</sup> Section 548.06(1), Florida Statutes.

<sup>18</sup> Id.

<sup>19</sup> Department of Business and Professional Regulation Agency Analysis, page 2, dated March 7, 2013, on file with subcommittee.

<sup>20</sup> Section 548.06(1), Florida Statutes.

Nothing in ch. 548, F.S., requires the promoter to retain any records in relation to the filing of that written report.

### **Effect of Proposed Changes**

The bill creates s. 548.06(7), F.S., to require that the promoter keep a copy of certain records for a period of seven years. Such records include:

- Records necessary to justify and support each report submitted to the Commission;
- A copy of each report filed with the Commission, certified by the promoter to be correct;
- Copies of all gross receipts;
- A copy of the independently-prepared ticket manifest; and
- Receipted vouchers for all expenditures and deductions.

The promoter must provide a copy of these records to the Commission, upon request.

Moreover, the bill creates s. 548.06(8), F.S., which provides that compliance with the above requirements, as well as all requirements outlined in s. 548.06, F.S., is subject to verification by Department or Commission audit. The bill gives the Commission the right to audit the promoter's books and records relating to the promoter's operations under ch. 548, F.S., provided that the Commission provides reasonable notice to the promoter of the inspection.

Finally, the bill creates s. 548.06(9), F.S., to direct the Commission to adopt rules establishing a procedure for auditing a promoter's records, and for resolving any inconsistencies revealed in the audit. The Commission must also adopt rules imposing late fees in the event of taxes owed.

These changes are meant to help increase the level of oversight of the Commission over the financial interests of the promoters.

### *Commission Hearings*

#### **Current Situation**

Presently, s. 548.073, F.S., provides that any member of the Commission may conduct a hearing. Additionally, before any adjudication is rendered, a majority of the Commission must examine the record and approve the adjudication and order. The Commission is not required to follow the Administrative Procedure Act in this regard.

Because the Commission is not required to follow the Administrative Procedure Act in all hearings, there is a potential for the licensee's right of due process to be violated.

#### **Effect of Proposed Change**

The bill amends s. 548.073, F.S., to provide that all hearings held under ch. 548, F.S., must be held in accordance with ch. 120, F.S., the Administrative Procedure Act. This helps to ensure that all hearings held by the Commission are conducted in an open manner, providing due process to licensees.

### **B. SECTION DIRECTORY:**

**Section 1:** amends s. 548.002, F.S., to provide definitions relating to the Florida Boxing Commission.

**Section 2:** amends s. 548.004(1), F.S., to amend and clarify the duties and responsibilities to be performed by the executive director of the Commission; and amends s. 548.004(2), F.S., to eliminate the requirement that the Commission record all of its scheduled proceedings, as the requirement is duplicative.

**Section 3:** amends s. 548.006(3), F.S., to clarify that the Commission has exclusive jurisdiction over mixed martial arts matches held in the state.

**Section 4:** amends s. 548.007, F.S., to create new exemptions from ch. 548, F.S., and to clarify existing exemptions.

**Section 5:** amends s. 548.046(3)(c), F.S., and creates s. 548.046(3)(d), F.S., to provide that the failure or refusal to provide a urine sample, or the positive result of a urine test, results in the immediate suspension of the participant's license, and to provide that a violation constitutes an "immediate serious danger to the health, safety, and welfare of the participants and the public."

**Section 6:** amends s. 548.054, F.S., to change terminology from "application" to "petition;" and to require the Commission to hold purse forfeiture hearings pursuant to ss. 120.569 and 120.57, F.S., of the Administrative Procedure Act.

**Section 7:** creates s. 548.06(7), F.S., to require that the promoter keep a copy of certain records for a period of seven years; creates s. 548.06(8), F.S., to provide that compliance with the requirements outlined in s. 548.06, F.S., is subject to verification by Department or Commission audit and to provide that the Commission has the right to audit a promoter's books and records; and creates s. 548.06(9), F.S., to direct the Commission to adopt rules establishing a procedure for auditing a promoter's records, and for resolving any inconsistencies revealed in the audit, and to establish rules for imposing late fees in the event of taxes owed.

**Section 8:** amends s. 548.07, F.S., to provide an emergency license suspension procedure.

**Section 9:** amends s. 548.073, F.S., to provide that all hearings held under ch. 548, F.S., must be held in accordance with the Administrative Procedure Act.

**Section 10:** provides an effective date of July 1, 2013.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill directs the Commission to adopt a rule imposing a late fee on taxes owed the Commission. Any revenue collections based on imposing a late fee on post event taxes are expected to be insignificant.

The Commission estimates that had a late fee been imposed in FY 2011-12, the fee revenues collected would have been approximately \$6,915. The fee revenue estimate is based on total post event taxes collected of \$115,258, a 10% penalty imposed, with 60% of estimated tax reports being filed late.<sup>21</sup> The Commission indicates with the recent implementation of new accountability measures the amount of post event tax collections, which are filed late, will likely decline in future years, thereby reducing any late fee revenues from the estimated FY 2011-12 collection amount.

<sup>21</sup> Department of Business and Professional Regulation, estimated post event tax penalties for late fees, correspondence with staff of the Government Operations Appropriations Subcommittee, March 14, 2013, on file with the subcommittee.

2. Expenditures:

The bill is not anticipated to have a fiscal impact on state expenditures.<sup>22</sup>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of sales tax shared with counties or municipalities.

2. Other:

As discussed above, Article I, Section 9 of the Florida Constitution protects a person's property from unfair governmental interference, unwarranted encroachment, or taking. Substantive due process protects a person's property from unfair governmental interference, unwarranted encroachment or taking- the test to be applied in determining whether a statute violates due process is whether the statute bears a rational relation to a legitimate legislative purpose in safeguarding the public health, safety, or general welfare, and is not discriminatory, arbitrary or oppressive.

Section 548.046(3)(c), F.S., currently provides that the failure or refusal to provide a urine sample, immediately upon request, results in the revocation of the participants license. This process of license revocation, which is generally considered a form of property, does not require a review or redress process- there is no process for the aggrieved licensee to petition the Commission for a hearing to review the license revocation. As a result, a court may find that the licensee is being deprived of his or her property without due process of law- a hearing prior to the revocation. Moreover, it is unclear whether a court would find that the revocation is rationally related to protecting the public's health, safety, or general welfare. As such, the revocation, without a prior hearing, may be a violation of the licensee's constitutional right to due process.

The bill amends s. 548.046(3)(c), F.S., to provide that the failure or refusal to provide a urine sample, or the failure of a drug test, results in the immediate suspension of the participant's license and constitutes an "immediate serious danger to the health, safety, and welfare of the participants and the public."

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<sup>22</sup> Department of Business and Professional Regulation, Bill Analysis on HB 1067, dated March 7, 2013, on file with the Government Operations Appropriations Subcommittee.

Moreover, the fact that the licensee poses an immediate, serious danger likely necessitates the suspension prior to a hearing, so long as a hearing is promptly provided after the suspension.

The bill further amends s. 548.07, F.S., to set forth the procedure to be followed in the event of an immediate license suspension. Specifically, an emergency suspension order may be issued to any person who is licensed under ch. 548, F.S., and who poses an "immediate serious danger to the health, safety, and welfare of the participants and the general public." The suspension must be reviewed and an administrative complaint must be filed by the Department's Office of General Counsel within twenty-one days of the suspension. Following service of the administrative complaint, pursuant to s. 455.275, F.S., the disciplinary process must proceed in accordance with the Administrative Procedure Act.

Based on these new procedures, a court is more likely to find that the emergency suspension procedure is not violative of the licensees' due process right, as the emergency suspension may be rationally related to safeguarding public health, safety, or general welfare, as the use of drugs in one of more of the participants is likely a danger to the health of either the drug-using participant or his or her opponent. Moreover, within twenty-one days after the suspension, the licensee is provided a hearing process in order to petition the Commission.

#### B. RULE-MAKING AUTHORITY:

The bill creates s. 548.06(9), F.S., which directs the Commission to adopt rules establishing a procedure for auditing a promoter's records, and for resolving any inconsistencies revealed in the audit.

Additionally, the Commission must also adopt rules imposing late fees in the event of taxes owed.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

##### *Inspector General Audit*

The Department's Office of Inspector General conducted an audit to evaluate the activities and controls of the Florida State Boxing Commission. On November 29, 2012, the Office of Inspector General issued its audit findings.<sup>23</sup> Specifically, the audit found:

- Commission revenue is under-reported by promoters and not appropriately reconciled by Commission staff, contributing to the Commission's current budget deficit;
- Inadequate controls exist regarding the licensure process of officials, resulting in unlicensed activity;
- Non-compliance with state regulations regarding the protection of personal and confidential information, putting the Department at risk; and
- Procedures are not properly designed or effectively implemented, yielding improper oversight of Commission activities.

Additionally, the audit report made several recommendations to the Department. Such recommendations include that the Commission ensure that:

- All revenue reported and received from live-event permit fees and post-event tax reports is appropriately collected, recorded and reconciled;
- All officials are properly licensed prior to working at Commission-sanctioned events;
- Risks presented by inadequately secured personal and confidential information are identified and remediation steps are taken; and
- Policies, procedures, and oversight practices are amended so that the Commission objectives are achieved and oversight of Commission activities is accomplished.

The bill addresses the financial and promoter oversight issues of the Florida State Boxing Commission, as highlighted by the audit.

<sup>23</sup> See, generally: Department of Business and Professional Regulation Internal Audit Report A-1213-BPR-009, dated November 29, 2012, on file with subcommittee.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**





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

Section 1. Section 548.002, Florida Statutes, is amended to read:

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

(1) "Amateur" means a person who has never received nor competed for any purse or other article of value, either for the expenses of training or for participating in a match, other than a prize of \$50 in value or less.

(2) "Amateur sanctioning organization" means any business entity organized for sanctioning and supervising matches involving amateurs.

(3) "Boxing" means the practice of fighting with the fists as a sport ~~to compete with the fists.~~

(4) "Commission" means the Florida State Boxing Commission.

(5) "Concessionaire" means any person or business entity not licensed as a promoter which receives revenues or other compensation from the sale of tickets or from the sale of souvenirs, programs, broadcast rights, or any other concessions in conjunction with the promotion of a match.

(6) "Concessions" means souvenirs, programs, drinks, food, alcohol, clothing, or other tangible objects sold to the general public during matches.

~~(7)-(6)~~ "Contest" means a boxing, kickboxing, or mixed martial arts engagement in which persons participating strive earnestly to win using, but not necessarily being limited to,

57 strikes and blows to the head.

58 ~~(8)-(7)~~ "Department" means the Department of Business and  
 59 Professional Regulation.

60 ~~(9)-(8)~~ "Event" means one or more matches comprising a  
 61 show.

62 ~~(10)-(9)~~ "Exhibition" means a boxing, kickboxing, or mixed  
 63 martial arts engagement in which persons participating show or  
 64 display their skill without necessarily striving to win using,  
 65 but not necessarily being limited to, strikes and blows to the  
 66 head.

67 (11) "Face value" means the dollar value of a ticket which  
 68 is equal to the dollar amount that a customer is required to pay  
 69 or, for complimentary tickets, would have been required to pay  
 70 to purchase a ticket with equivalent seating priority in order  
 71 to view the event. If the ticket specifies the amount of  
 72 admission charges attributable to state or federal taxes, such  
 73 taxes shall not be included in the face value.

74 ~~(12)-(10)~~ "Foreign copromoter" means a promoter who has no  
 75 place of business within this state.

76 (13) "Full contact" means the use of blows and strikes  
 77 during a match or bout that:

78 (a) Are intended to break the plane of the receiving  
 79 participant's body;

80 (b) Are delivered to the head, face, neck, or body of the  
 81 receiving participant; and

82 (c) Cause the receiving participant to move in response to  
 83 the blow or strike.

84 ~~(14)-(11)~~ "Judge" means a person who has a vote in

85 determining the winner of any contest.

86 (15)~~(12)~~ "Kickboxing" means the practice of fighting to  
 87 ~~compete~~ with the fists, hands, feet, legs, or any combination  
 88 thereof as a sport, and includes "punchkick" and other similar  
 89 competitions.

90 (16)~~(13)~~ "Manager" means any person who, directly or  
 91 indirectly, controls or administers the boxing, kickboxing, or  
 92 mixed martial arts affairs of any participant.

93 (17)~~(14)~~ "Match" means any contest or exhibition.

94 (18)~~(15)~~ "Matchmaker" means a person who brings together  
 95 professionals or arranges matches for professionals.

96 (19)~~(16)~~ "Mixed martial arts" means full contact, unarmed  
 97 combat involving the use, ~~subject to any applicable limitations~~  
 98 ~~set forth in this chapter,~~ of a combination of two or more  
 99 techniques, including, but not limited to, wrestling, grappling,  
 100 kicking, and striking, from different disciplines of the martial  
 101 arts, including, but not limited to, boxing, kickboxing, muay  
 102 Thai, and Thai boxing ~~grappling, kicking, and striking.~~

103 (20)~~(17)~~ "Participant" means a professional competing in a  
 104 boxing, kickboxing, or mixed martial arts match.

105 (21)~~(18)~~ "Physician" means a person ~~an individual~~ licensed  
 106 as a medical doctor or doctor of osteopathy ~~to practice medicine~~  
 107 ~~and surgery in this state.~~

108 (22)~~(19)~~ "Professional" means a person who has received or  
 109 competed for any purse or other article of a value greater than  
 110 \$50, either for the expenses of training or for participating in  
 111 any match.

112 (23)~~(20)~~ "Promoter" means any person, and includes any

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113 officer, director, employee, or stockholder of a corporate  
 114 promoter, who produces, arranges, or stages any match involving  
 115 a professional.

116 (24)~~(21)~~ "Purse" means the financial guarantee or other  
 117 remuneration for which a professional is participating in a  
 118 match and includes the professional's share of any payment  
 119 received for radio broadcasting, television, and motion picture  
 120 rights.

121 (25)~~(22)~~ "Second" or "cornerman" means a person who  
 122 assists the match participant between rounds and maintains the  
 123 corner of the participant during the match.

124 (26)~~(23)~~ "Secretary" means the Secretary of Business and  
 125 Professional Regulation.

126 Section 2. Section 548.004, Florida Statutes, is amended  
 127 to read:

128 548.004 Executive director; duties, compensation,  
 129 administrative support.—

130 (1) The department shall employ an executive director with  
 131 the approval of the commission. The executive director shall  
 132 serve at the pleasure of the secretary. The executive director  
 133 or his or her designee shall perform duties and responsibilities  
 134 as set forth by the commission, which shall include conducting  
 135 the functions of the commission office; appointing event and  
 136 commission officials; approving licenses, permits, matches, and  
 137 fight cards; and performing any ~~keep a record of all proceedings~~  
 138 ~~of the commission; shall preserve all books, papers, and~~  
 139 ~~documents pertaining to the business of the commission; shall~~  
 140 ~~prepare any notices and papers required; shall appoint judges,~~

141 ~~referees, and other officials as delegated by the commission and~~  
 142 ~~pursuant to this chapter and rules of the commission; and shall~~  
 143 ~~perform such~~ other duties as the department or commission deems.  
 144 necessary ~~directs~~. The executive director may issue subpoenas  
 145 and administer oaths.

146 ~~(2) The commission shall require electronic recording of~~  
 147 ~~all scheduled proceedings of the commission.~~

148 (2) ~~(3)~~ The department shall provide assistance in budget  
 149 development and budget submission for state funding requests.  
 150 The department shall submit an annual balanced legislative  
 151 budget for the commission which is based upon anticipated  
 152 revenue. The department shall provide technical assistance and  
 153 administrative support, if requested or determined necessary  
 154 ~~needed~~, to the commission and its executive director on issues  
 155 relating to personnel, contracting, property management, or  
 156 other issues identified as important to performing the duties of  
 157 this chapter and to protecting the interests of the state.

158 Section 3. Subsection (3) of section 548.006, Florida  
 159 Statutes, is amended to read:

160 548.006 Power of commission to control professional and  
 161 amateur pugilistic matches ~~contests and exhibitions~~;  
 162 certification of competitiveness of professional mixed martial  
 163 arts and kickboxing matches.—

164 (3) The commission has exclusive jurisdiction over  
 165 approval, disapproval, suspension of approval, and revocation of  
 166 approval of all amateur sanctioning organizations for amateur  
 167 boxing, and kickboxing, and mixed martial arts matches held in  
 168 this state.

169 Section 4. Section 548.007, Florida Statutes, is amended  
 170 to read:

171 548.007 Exemptions.~~This chapter does~~ ~~Applicability of~~  
 172 ~~provisions to amateur matches and certain other matches or~~  
 173 ~~events. Sections 548.001-548.079 do not apply to:~~

174 (1) A match that does not allow full contact ~~match~~  
 175 ~~conducted or sponsored by a bona fide nonprofit school or~~  
 176 ~~education program whose primary purpose is instruction in the~~  
 177 ~~martial arts, boxing, or kickboxing, if the match held in~~  
 178 ~~conjunction with the instruction is limited to amateurs. amateur~~  
 179 ~~participants who are students of the school or instructional~~  
 180 ~~program;~~

181 (2) A match conducted or sponsored by any company or  
 182 detachment of the Florida National Guard, if the match is  
 183 limited to amateurs ~~participants~~ who are members of the company  
 184 or detachment of the Florida National Guard.~~;~~~~or~~

185 (3) A match conducted or sponsored by the Fraternal Order  
 186 of Police, if the match is limited to amateurs ~~amateur~~  
 187 ~~participants~~ and is held in conjunction with a charitable event.

188 (4) A match conducted by a public postsecondary education  
 189 institution or a public secondary school, if the match is  
 190 limited to amateurs who are students enrolled in the institution  
 191 or school and members of a school-sponsored boxing club or team.

192 (5) A match conducted by or between companies or  
 193 detachments of the United States Army, Navy, Air Force, Marines,  
 194 Coast Guard, or National Guard, if the match is limited to  
 195 amateurs who are members of the United States Armed Forces.

196 (6) A match conducted by the International Olympic

197 Committee, the International Paralympic Committee, the Special  
 198 Olympics, or the Junior Olympics, if the match is limited to  
 199 amateurs who are competing in or attempting to qualify for the  
 200 Olympics, Paralympics, Special Olympics, or Junior Olympics.

201 (7) A professional or amateur martial arts activity. As  
 202 used in this subsection, the term "martial arts" means any one  
 203 of the traditional forms of self-defense or unarmed combat  
 204 involving the use of physical skill and coordination that are  
 205 taught and advanced on a belt system, including, but not limited  
 206 to, karate, aikido, judo, and kung fu. The term does not include  
 207 "mixed martial arts."

208 Section 5. Paragraph (c) of subsection (3) of section  
 209 548.046, Florida Statutes, is amended, and paragraph (d) is  
 210 added to that subsection, to read:

211 548.046 Physician's attendance at match; examinations;  
 212 cancellation of match.-

213 (3)

214 (c) Failure or refusal to provide a urine sample  
 215 immediately upon request constitutes an immediate serious danger  
 216 to the health, safety, and welfare of the participants and the  
 217 public and shall result in the immediate suspension ~~revocation~~  
 218 of the participant's license and constitute grounds for  
 219 additional disciplinary action. Any participant who has been  
 220 adjudged the loser of a match and who subsequently refuses to or  
 221 is unable to provide a urine sample shall forfeit his or her  
 222 share of the purse to the commission. Any participant who is  
 223 adjudged the winner of a match and who subsequently refuses to  
 224 or is unable to provide a urine sample shall forfeit the win and

225 shall not be allowed to engage in any future match in the state.  
 226 A no-decision result shall be entered into the official record  
 227 as the result of the match. The purse shall be redistributed as  
 228 though the participant found to be in violation of this  
 229 subsection had lost the match. If redistribution of the purse is  
 230 not necessary or after redistribution of the purse is completed,  
 231 the participant found to be in violation of this subsection  
 232 shall forfeit his or her share of the purse to the commission.

233 (d) Testing positive for any of the prohibited substances  
 234 as set forth by commission rule constitutes an immediate serious  
 235 danger to the health, safety, and welfare of the participants  
 236 and the general public and shall result in the immediate  
 237 suspension of the participant's license and constitute grounds  
 238 for additional disciplinary action.

239 Section 6. Subsection (2) of section 548.054, Florida  
 240 Statutes, is amended to read:

241 548.054 Withholding of purses; hearing; disposition of  
 242 withheld purse forfeiture.-

243 (2) Any purse so withheld shall be delivered by the  
 244 promoter to the commission upon demand. Within 10 days after the  
 245 match, the person from whom the sum was withheld may submit a  
 246 petition for a hearing to the commission ~~apply in writing to the~~  
 247 ~~commission for a hearing~~. Upon receipt of the petition  
 248 application, the commission may hold ~~shall fix a date for a~~  
 249 hearing pursuant to ss. 120.569 and 120.57. ~~Within 10 days after~~  
 250 ~~the hearing or after 10 days following the match~~, If no petition  
 251 ~~application~~ for a hearing is filed, the commission shall meet  
 252 and determine the disposition to be made of the withheld purse.



253 If the commission finds the charges sufficient, it may declare  
 254 all or ~~any~~ part of the funds forfeited. If the commission finds  
 255 the charges not sufficient upon which to base a withholding  
 256 order, it shall immediately distribute the withheld funds to the  
 257 persons entitled thereto.

258 Section 7. Subsection (1) of section 548.06, Florida  
 259 Statutes, is amended, and subsections (7), (8), and (9) are  
 260 added to that section, to read:

261 548.06 Payments to state; exemptions; audit of records.-

262 (1) A promoter holding a match shall, within 72 hours after  
 263 the match, file with the commission a written report which  
 264 includes the number of tickets sold, the amount of gross  
 265 receipts, and any other facts the commission may require. For  
 266 the purposes of this chapter, ~~total~~ gross receipts include:

267 (a) The gross price charged for the sale or lease of  
 268 broadcasting, television, and motion picture rights without any  
 269 deductions for commissions, brokerage fees, distribution fees,  
 270 advertising, or other expenses or charges;

271 (b) The portion of the receipts from the sale of  
 272 souvenirs, programs, and other concessions received by the  
 273 promoter;

274 (c) The face value of all tickets sold and complimentary  
 275 tickets issued, provided, or given, less federal and state  
 276 taxes, if applicable; and

277 (d) The face value of any seat or seating issued,  
 278 provided, or given in exchange for advertising, sponsorships, or  
 279 anything of value to the promotion of an event.

280 (7) The promoter shall retain a copy of the following

281 records for a period of 7 years and shall provide a copy of such  
 282 records to the commission upon request:

283 (a) Records necessary to justify and support each report  
 284 submitted to the commission.

285 (b) A copy of each report filed with the commission,  
 286 certified by the professional or amateur promoter to be correct.

287 (c) Copies of all gross receipts.

288 (d) A copy of the independently prepared ticket manifest.

289 (e) Receipted vouchers for all expenditures and  
 290 deductions.

291 (8) Compliance with the requirements of this section is  
 292 subject to verification by department or commission audit. The  
 293 commission shall have the right, upon reasonable notice to the  
 294 promoter, to audit the promoter's books and records relating to  
 295 the promoter's operations under this chapter.

296 (9) The commission shall adopt rules establishing a  
 297 procedure for auditing a promoter's records and resolving any  
 298 inconsistencies revealed by an audit, such as excessive taxes  
 299 paid or taxes owed by the filing promoter, and shall adopt a  
 300 rule imposing a late fee in the event of taxes owed.

301 Section 8. Section 548.07, Florida Statutes, is amended to  
 302 read:

303 548.07 Suspension of license or permit by commissioner;  
 304 hearing. ~~Notwithstanding any provision of chapter 120, any~~  
 305 ~~member of the commission may, upon her or his own motion or upon~~  
 306 ~~the verified written complaint of any person charging a licensee~~  
 307 ~~or permittee with violating this chapter, suspend any license or~~  
 308 ~~permit until final determination by the commission if such~~

309 ~~action is necessary to protect the public welfare and the best~~  
310 ~~interests of the sport. The commission shall hold a hearing~~  
311 ~~within 10 days after the date on which the license or permit is~~  
312 ~~suspended.~~

313 (1) The commission, any commissioner, any commission  
314 designee, or the executive director or his or her designee may  
315 issue an emergency suspension of license order to any person  
316 licensed under this chapter who poses an immediate serious  
317 danger to the health, safety, and welfare of the participants  
318 and the general public.

319 (2) The department's Office of General Counsel shall  
320 review the grounds for each emergency suspension order issued  
321 and file an administrative complaint against the licensee within  
322 21 days after the issuance of the emergency suspension order.

323 (3) Following service of the administrative complaint,  
324 pursuant to procedures set forth in s. 455.275, the disciplinary  
325 process shall proceed pursuant to chapter 120.

326 Section 9. Section 548.073, Florida Statutes, is amended  
327 to read:

328 548.073 Commission hearings.—All hearings held under this  
329 chapter must be held in accordance with chapter 120

330 ~~Notwithstanding the provisions of chapter 120, any member of the~~  
331 ~~commission may conduct a hearing. Before any adjudication is~~  
332 ~~rendered, a majority of the members of the commission shall~~  
333 ~~examine the record and approve the adjudication and order.~~

334 Section 10. This act shall take effect July 1, 2013.





