CHAPTER 99-7

House Bill No. 1051

An act relating to the Florida Statutes; amending ss. 20.19, 20.22, 121.021, 121.055, 121.091, 121.35, 210.31, 212.02, 228.0565, 230.23005, 298.301, 322.056, 325.2135, 373.71, 403.0752, 440.442, 447.603, 455.217, 455.507, 455.511, 455.541, 455.561, 455.621, 455.631, 455.687, 481.329, 489.1195, 489.518, 489.553, 493.6305, 501.925, 517.021, 608.4381, 608.4384, 620.202, 620.205, 624.425, 626.321, 626.7355, 626.741, 626.792, 626.9325, 627.70161, 628.721, 631.929, 634.312, 651.114, 667.006, 686.602, 686.604, 686.605, 686.606, 686.611, 686.613, 721.84, 916.303, 921.0024, and 985.03, Florida Statutes, to conform to the directive in s. 1, ch. 93-199, Laws of Florida, to remove gender-specific references applicable to human beings from the Florida Statutes without substantive change in legal effect.

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

Section 1. Paragraph (i) of subsection (17) of section 20.19, Florida Statutes, 1998 Supplement, is amended to read:

20.19 Department of Children and Family Services.—There is created a Department of Children and Family Services.

(17) CONTRACTING AND PERFORMANCE STANDARDS.—

(i) The department must implement systems and controls to ensure financial integrity and service provision quality in the developmental services Medicaid waiver service system no later than December 31, 1998. The Auditor General shall include specific reference to systems and controls related to financial integrity in the developmental services Medicaid waiver service system in his or her audit of the department for the 1998-1999 fiscal year, and for all subsequent fiscal years. The Office of Program Policy Analysis and Government Accountability shall review the department's systems and controls related to service provision quality in the developmental services Medicaid waiver service system and submit a report to the Legislature by December 31, 1999.

Section 2. Paragraph (a) of subsection (5) of section 20.22, Florida Statutes, is amended to read:

20.22 Department of Management Services.—There is created a Department of Management Services.

(5)(a) The Florida State Group Insurance Council is created within the division for the purpose of providing joint and coordinated oversight of the operation and administration of the state group insurance program. The council shall consist of the state budget director; an individual from the private sector with an extensive health administration background, appointed by the Governor; a member of the Florida Senate, appointed by the

President of the Senate; a member of the Florida House of Representatives, appointed by the Speaker of the House of Representatives; a representative of the State University System, appointed by the Board of Regents; the State Insurance Commissioner or his or her designee; the director of the Division of Retirement; and two representatives of employees and retirees, appointed by the Governor. Members of the council appointed by the Governor shall be appointed to serve terms of 4 years each. Each member of the council shall serve until a successor is appointed. Additionally, the director of the Division of State Employee Insurance shall be a nonvoting member of the council.

Section 3. Paragraph (b) of subsection (43) of section 121.021, Florida Statutes, 1998 Supplement, is amended to read:

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

(43) "Phased retirement program" means a program contracted by the governing board of a university or community college participating under this chapter in which a retiree may be reemployed in a faculty position provided:

(b) The retired member is reemployed for not more than 780 hours during the first 12 months of his or her retirement; and

Renewed membership for a retiree participating in a phased retirement program shall be determined in accordance with s. 121.053 or s. 121.122.

Section 4. Paragraph (e) of subsection (6) of section 121.055, Florida Statutes, 1998 Supplement, is amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(6)

(e) Benefits.—

1. Benefits shall be payable under the Senior Management Service Optional Annuity Program only to participants in the program, or their beneficiaries as designated by the participant in the contract with a provider company, and such benefits shall be paid by the designated company in accordance with the terms of the annuity contract or contracts applicable to the participant. A participant must be terminated from all employment with all Florida Retirement System employers as provided in s. 121.021(39) to begin receiving the employer-funded benefit. Benefits funded by employer contributions shall be payable only as a lifetime annuity to the participant, his or her beneficiary, or his or her estate, except for:

a. A lump-sum payment to the beneficiary upon the death of the participant; or

b. A cash-out of a de minimis account upon the request of a former participant who has been terminated for a minimum of 6 months from the employment that entitled him or her to optional retirement program participation. A de minimis account is an account with a provider company containing employer contributions and accumulated earnings of not more than $3,500 made under the provisions of this chapter. Such cash-out must be a complete liquidation of the account balance with that company and is subject to the provisions of the Internal Revenue Code.

2. The benefits payable to any person under the Senior Management Service Optional Annuity Program, and any contribution accumulated under such program, shall not be subject to assignment, execution, or attachment or to any legal process whatsoever.

3. A participant who receives optional annuity program benefits funded by employer contributions shall be deemed to be retired from a state-administered retirement system in the event of subsequent employment with any employer that participates in the Florida Retirement System.

Section 5. Paragraph (b) of subsection (13) of section 121.091, Florida Statutes, 1998 Supplement, is amended to read:

121.091 Benefits payable under the system.—Benefits may not be paid under this section unless the member has terminated employment as provided in s. 121.021(39)(a) or begun participation in the Deferred Retirement Option Program as provided in subsection (13), and a proper application has been filed in the manner prescribed by the division. The division may cancel an application for retirement benefits when the member or beneficiary fails to timely provide the information and documents required by this chapter and the division's rules. The division shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application when the required information or documents are not received.

(13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and subject to the provisions of this section, the Deferred Retirement Option Program, hereinafter referred to as the DROP, is a program under which an eligible member of the Florida Retirement System may elect to participate, deferring receipt of retirement benefits while continuing employment with his or her Florida Retirement System employer. The deferred monthly benefits shall accrue in the System Trust Fund on behalf of the participant, plus interest compounded monthly, for the specified period of the DROP participation, as provided in paragraph (c). Upon termination of employment, the participant shall receive the total DROP benefits and begin to receive the previously determined normal retirement benefits. Participation in the DROP does not guarantee employment for the specified period of DROP.

(b) Participation in the DROP.—

1. An eligible member may elect to participate in the DROP for a period not to exceed a maximum of 60 calendar months immediately following the date on which the member first reaches his or her normal retirement date or the date to which he or she is eligible to defer his or her election to participate as provided in subparagraph (a)2. However, a member who has

reached normal retirement date prior to the effective date of the DROP shall be eligible to participate in the DROP for a period of time not to exceed 60 calendar months immediately following the effective date of the DROP, except a member of the Special Risk Class who has reached normal retirement date prior to the effective date of the DROP and whose total accrued value exceeds 75 percent of average final compensation as of his or her effective date of retirement shall be eligible to participate in the DROP for no more than 36 calendar months immediately following the effective date of the DROP.

2. Upon deciding to participate in the DROP, the member shall submit, on forms required by the division:

a. A written election to participate in the DROP;

b. Selection of the DROP participation and termination dates, which satisfy the limitations stated in paragraph (a) and subparagraph 1. Such termination date shall be in a binding letter of resignation with the employer, establishing a deferred termination date. The member may change the termination date within the limitations of subparagraph 1., but only with the written approval of his or her employer;

c. A properly completed DROP application for service retirement as provided in this section; and

d. Any other information required by the division.

3. The DROP participant shall be a retiree under the Florida Retirement System for all purposes, except for paragraph (5)(f) and subsection (9) and ss. 112.3173, 112.363, 121.053, and 121.122. However, participation in the DROP does not alter the participant's employment status and such employee shall not be deemed retired from employment until his or her deferred resignation is effective and termination occurs as provided in s. 121.021(39).

4. Elected officers shall be eligible to participate in the DROP subject to the following:

a. An elected officer who reaches normal retirement date during a term of office may defer the election to participate in the DROP until the next succeeding term in that office. Such elected officer who exercises this option may participate in the DROP for up to 60 calendar months or a period of no longer than such succeeding term of office, whichever is less.

b. An elected or a nonelected participant may run for a term of office while participating in DROP and, if elected, extend the DROP termination date accordingly, except, however, if such additional term of office exceeds the 60-month limitation established in subparagraph 1., and the officer does not resign from office within such 60-month limitation, the retirement and the participant's DROP shall be null and void as provided in sub-subparagraph (c)4.d.

c. An elected officer who is dually employed and elects to participate in DROP shall be required to satisfy the definition of termination within the

60-month limitation period as provided in subparagraph 1. for the nonelected position and may continue employment as an elected officer as provided in s. 121.053. The elected officer will be enrolled as a renewed member in the Elected State and County Officers' Class or the Regular Class, as provided in ss. 121.053 and 121.22, on the first day of the month after termination of employment in the nonelected position and termination of DROP. Distribution of the DROP benefits shall be made as provided in paragraph (c).

Section 6. Paragraph (a) of subsection (5) of section 121.35, Florida Statutes, 1998 Supplement, is amended to read:

121.35 Optional retirement program for the State University System.—

(5) BENEFITS.—

(a) Benefits shall be payable under the optional retirement program only to vested participants in the program, or their beneficiaries as designated by the participant in the contract with a provider company, and such benefits shall be paid only by the designated company in accordance with the terms of the annuity contract or contracts applicable to the participant. The participant must be terminated from all employment with all Florida Retirement System employers, as provided in s. 121.021(39), to begin receiving the employer-funded benefit. Benefits funded by employer contributions shall be payable only as a lifetime annuity to the participant, his or her beneficiary, or his or her estate, except for:

1. A lump-sum payment to the beneficiary upon the death of the participant; or

2. A cash-out of a de minimis account upon the request of a former participant who has been terminated for a minimum of 6 months from the employment that entitled him or her to optional retirement program participation. A de minimis account is an account with a provider company containing employer contributions and accumulated earnings of not more than $3,500 made under the provisions of this chapter. Such cash-out must be a complete liquidation of the account balance with that company and is subject to the provisions of the Internal Revenue Code.

Section 7. Section 210.31, Florida Statutes, is amended to read:

210.31 Payment of taxes by electronic funds transfer.—The Secretary of Business and Professional Regulation may require a distributor who sells tobacco products within the state to remit by electronic funds transfer any tax imposed under s. 210.30 if the taxpayer is subject to the tax and if the total of such taxes the distributor ~~he~~ paid in the prior year amounted to $50,000 or more.

Section 8. Subsection (28) of section 212.02, Florida Statutes, 1998 Supplement, is amended to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(28) "Farmer" means a person who is directly engaged in the business of producing crops, livestock, or other agricultural commodities. The term includes, but is not limited to, horse breeders, nurserymen, dairy farmers ~~dairymen~~, poultry farmers ~~poultrymen~~, cattle ranchers, apiarists, and persons raising fish.

Section 9. Paragraph (a) of subsection (3) of section 228.0565, Florida Statutes, 1998 Supplement, is amended to read:

228.0565 Deregulated public schools.—

(3) PROPOSAL.—

(a) A proposal to be a deregulated school must be developed by the school principal and the school advisory council. A majority of the members of the school advisory council must approve the proposal, and the principal and the school advisory council chair ~~chairman~~ must sign the proposal. At least 50 percent of the teachers employed at the school must approve the proposal. The school must conduct a survey to show parental support for the proposal.

Section 10. Paragraph (a) of subsection (2) of section 230.23005, Florida Statutes, 1998 Supplement, is amended to read:

230.23005 Supplemental powers and duties of school board.—The school board may exercise the following supplemental powers and duties. Any provision of chapters 228, 229, 231, 232, 233, 234, 235, and this chapter prevails over any conflicting provision of this section. The rules adopted under this section must not be inconsistent with the provisions of chapters 228, 229, 231, 232, 233, 234, 235, and this chapter.

(2) FISCAL MANAGEMENT.—The school board may adopt policies providing for fiscal management of the school district with respect to school purchasing, facilities, nonstate revenue sources, budgeting, fundraising, and other activities relating to the fiscal management of district resources, including, but not limited to, the policies governing:

(a) Sales calls and demonstrations by agents, solicitors, salespersons ~~salesmen~~, and vendors on campus; local preference criteria for vendors; specifications for quantity purchasing; prioritization of awards for bids; declining bid awards; and purchase requisitions, approvals, and routing.

Section 11. Subsections (2), (4), and (6) of section 298.301, Florida Statutes, 1998 Supplement, are amended to read:

298.301 District water control plan adoption; district boundary modification; plan amendment; notice forms; objections; hearings; assessments.—

(2) Before adopting a water control plan or plan amendment, the board of supervisors must adopt a resolution to consider adoption of the proposed plan or plan amendment. As soon as the resolution proposing the adoption or amendment of the district's water control plan has been filed with the district secretary, the board of supervisors shall give notice of a public hearing on the proposed plan or plan amendment by causing publication to

be made once a week for 3 consecutive weeks in a newspaper of general circulation published in each county in which lands and other property described in the resolution are situated. The notice must be in substantially the following form:

Notice of Hearing

To the owners and all persons interested in the lands corporate, and other property in and adjacent to the ...name of district... District.

You are notified that the ...name of district... District has filed in the office of the secretary of the district a resolution to consider approval of a water control plan or an amendment to the current water control plan to provide ...here insert a summary of the proposed water control plan or plan amendment.... On or before its scheduled meeting of ...(date and time)... at the district's offices located at ...(list address of offices)... written objections to the proposed plan or plan amendment may be filed at the district's offices. A public hearing on the proposed plan or plan amendment will be conducted at the scheduled meeting, and written objections will be considered at that time. At the conclusion of the hearing, the board of supervisors may determine to proceed with the process for approval of the proposed plan or plan amendment and direct the district engineer to prepare an engineer's report identifying any property to be taken, determining benefits and damages, and estimating the cost of implementing the improvements associated with the proposed plan or plan amendment. A final hearing on approval of the proposed plan or plan amendment and engineer's report shall be duly noticed and held at a regularly scheduled board of supervisors meeting within 60 days after filing of the engineer's report with the secretary of the district.

Date of first publication: ....., 19.... .....

(Chair ~~Chairman~~, Board of Supervisors)

..... County, Florida

(4) The engineer may at any time call upon the attorney of the district for legal advice and information relative to her or his duties. The engineer shall proceed to view the premises and identify all lands, within or without the district, to be acquired by purchase or condemnation and used for rights-of-way, or other works set out in the proposed plan or plan amendment. The engineer shall, with the advice of the district attorney, staff, and consultants, determine the amount of benefits and the amount of damages, if any, that will accrue to each subdivision of land (according to ownership), from carrying out and putting into effect the proposed plan or plan amendment. The engineer shall determine only those benefits that are derived from the construction of the works and improvements set out in the proposed plan or plan amendment. The engineer has no power to change the proposed plan or plan amendment without board approval.

(6) Upon the filing of the engineer's report, the board of supervisors shall give notice thereof by arranging the publication of the report together with a geographical depiction of the district once a week for 2 consecutive weeks in a newspaper of general circulation in each county in the district. The notice must be substantially as follows:

Notice of Filing Engineer's Report for
..... District

Notice is given to all persons interested in the following described land and property in ..... County (or Counties), Florida, viz.: ...(Here describe land and property)... included within the ..... district that the engineer hereto appointed to determine benefits and damages to the property and lands situated in the district and to determine the estimated cost of construction required by the water control plan, within or without the limits of the district, under the proposed water control plan or plan amendment, filed her or his report in the office of the secretary of the district, located at ...(list address of district offices),... on the ..... day of ....., 19...., and you may examine the report and file written objections with the secretary of the district to all, or any part thereof, on or before ...(enter date 20 days after the last scheduled publication of this notice, which date must be before the date of the final hearing).... The report recommends ...(describe benefits and damages).... A final hearing to consider approval of the report and proposed water control plan or plan amendment shall be held ...(time, place, and date at least 30 days but no later than 60 days after the last scheduled publication of this notice)....

Date of first publication: ....., 19.... .....

(Chair ~~Chairman~~, Board of Supervisors)

..... County, Florida

Section 12. Paragraph (c) of subsection (1) of section 322.056, Florida Statutes, is amended to read:

322.056 Mandatory revocation or suspension of, or delay of eligibility for, driver's license for persons under age 18 found guilty of certain alcohol, drug, or tobacco offenses; prohibition.—

(1) Notwithstanding the provisions of s. 322.055, if a person under 18 years of age is found guilty of or delinquent for a violation of s. 562.11(2), s. 562.111, or chapter 893, and:

(c) The person is ineligible by reason of age for a driver's license or driving privilege, the court shall direct the department to withhold issuance of his or her driver's license or driving privilege for a period of:

1. Not less than 6 months and not more than 1 year after the date on which he or she would otherwise have become eligible, for the first violation.

2. Two years after the date on which he or she would otherwise have become eligible, for a subsequent violation.

Section 13. Subsection (2) of section 325.2135, Florida Statutes, 1998 Supplement, is amended to read:

325.2135 Motor vehicle emissions inspection program; development of specifications; fees; reporting.—

(2) If no specific legislation is passed during the 1999 legislative session to direct the department to implement a motor vehicle inspection program,

the department may issue a request for proposal and enter one or more contracts for a biennial inspection program for vehicles 5 model years and older using the basic test for hydrocarbon emissions and carbon monoxide emissions. The requirements for the program included in the proposals must be based on the requirements under chapter 325 unless those requirements conflict with this section. No contract entered into under this subsection may be for longer than 2 years. Notwithstanding the provisions of s. 325.214, if the fee for motor vehicle inspection proposed by the Department of Highway Safety and Motor Vehicles will exceed $10 per inspection, the department may impose the higher fee if such fee is approved through the budget amendment process set forth in chapter 216 and notice is provided to the chairs ~~chairmen~~ of the Senate and House Transportation and Natural Resources Committees at the time it is provided to the Senate Ways and Means and House Appropriations Committees.

Section 14. Section 373.71, Florida Statutes, is amended to read:

373.71 Apalachicola-Chattahoochee-Flint River Basin Compact.—

The states of Alabama, Florida and Georgia and the United States of America hereby agree to the following compact which shall become effective upon enactment of concurrent legislation by each respective state legislature and the Congress of the United States.

SHORT TITLE

This Act shall be known and may be cited as the "Apalachicola-Chattahoochee-Flint River Basin Compact" and shall be referred to hereafter in this document as the "ACF Compact" or "Compact."

ARTICLE I
COMPACT PURPOSES

This Compact among the states of Alabama, Florida and Georgia and the United States of America has been entered into for the purposes of promoting interstate comity, removing causes of present and future controversies, equitably apportioning the surface waters of the ACF, engaging in water planning, and developing and sharing common data bases.

ARTICLE II
SCOPE OF THE COMPACT

This Compact shall extend to all of the waters arising within the drainage basin of the ACF in the states of Alabama, Florida and Georgia.

ARTICLE III
PARTIES

The parties to this Compact are the states of Alabama, Florida and Georgia and the United States of America.

ARTICLE IV
DEFINITIONS

For the purposes of this Compact, the following words, phrases and terms shall have the following meanings:

(a) "ACF Basin" or "ACF" means the area of natural drainage into the Apalachicola River and its tributaries, the Chattahoochee River and its tributaries, and the Flint River and its tributaries. Any reference to the rivers within this Compact will be designated using the letters "ACF" and when so referenced will mean each of these three rivers and each of the tributaries to each such river.

(b) "Allocation formula" means the methodology, in whatever form, by which the ACF Basin Commission determines an equitable apportionment of surface waters within the ACF Basin among the three states. Such formula may be represented by a table, chart, mathematical calculation or any other expression of the Commission's apportionment of waters pursuant to this compact.

(c) "Commission" or "ACF Basin Commission" means the Apalachicola-Chattahoochee-Flint River Basin Commission created and established pursuant to this Compact.

(d) "Ground waters" means waters within a saturated zone or stratum beneath the surface of land, whether or not flowing through known and definite channels.

(e) "Person" means any individual, firm, association, organization, partnership, business, trust, corporation, public corporation, company, the United States of America, any state, and all political subdivisions, regions, districts, municipalities, and public agencies thereof.

(f) "Surface waters" means waters upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be considered "surface waters" when it exits from the spring onto the surface of the earth.

(g) "United States" means the executive branch of the government of the United States of America, and any department, agency, bureau or division thereof.

(h) "Water Resource Facility" means any facility or project constructed for the impoundment, diversion, retention, control or regulation of waters within the ACF Basin for any purpose.

(i) "Water resources," or "waters" means all surface waters and ground waters contained or otherwise originating within the ACF Basin.

ARTICLE V
CONDITIONS PRECEDENT TO LEGAL
VIABILITY OF THE COMPACT

This Compact shall not be binding on any party until it has been enacted into law by the legislatures of the states of Alabama, Florida and Georgia and by the Congress of the United States of America.

ARTICLE VI
ACF BASIN COMMISSION CREATED

(a) There is hereby created an interstate administrative agency to be known as the "ACF Basin Commission." The Commission shall be comprised of one member representing the state of Alabama, one member representing

the state of Florida, one member representing the state of Georgia, and one non-voting member representing the United States of America. The state members shall be known as "State Commissioners" and the federal member shall be known as the "Federal Commissioner." The ACF Basin Commission is a body politic and corporate, with succession for the duration of this Compact.

(b) The Governor of each of the states shall serve as the State Commissioner for his or her state. Each State Commissioner shall appoint one or more alternate members and one of such alternates as designated by the State Commissioner shall serve in the State Commissioner's place and carry out the functions of the State Commissioner, including voting on Commission matters, in the event the State Commissioner is unable to attend a meeting of the Commission. The alternate members from each state shall be knowledgeable in the field of water resources management. Unless otherwise provided by law of the state for which an alternate State Commissioner is appointed, each alternate State Commissioner shall serve at the pleasure of the State Commissioner. In the event of a vacancy in the office of an alternate, it shall be filled in the same manner as an original appointment.

(c) The President of the United States of America shall appoint the Federal Commissioner who shall serve as the representative of all federal agencies with an interest in the ACF. The President shall also appoint an alternate Federal Commissioner to attend and participate in the meetings of the Commission in the event the Federal Commissioner is unable to attend meetings. When at meetings, the alternate Federal Commissioner shall possess all of the powers of the Federal Commissioner. The Federal Commissioner and alternate appointed by the President shall serve until they resign or their replacements are appointed.

(d) Each state shall have one vote on the ACF Basin Commission and the Commission shall make all decisions and exercise all powers by unanimous vote of the three State Commissioners. The Federal Commissioner shall not have a vote, but shall attend and participate in all meetings of the ACF Basin Commission to the same extent as the State Commissioners.

(e) The ACF Basin Commission shall meet at least once a year at a date set at its initial meeting. Such initial meeting shall take place within ninety days of the ratification of the Compact by the Congress of the United States and shall be called by the chair ~~chairman~~ of the Commission. Special meetings of the Commission may be called at the discretion of the chair ~~chairman~~ of the Commission and shall be called by the chair ~~chairman~~ of the Commission upon written request of any member of the Commission. All members shall be notified of the time and place designated for any regular or special meeting at least five days prior to such meeting in one of the following ways: by written notice mailed to the last mailing address given to the Commission by each member, by facsimile, telegram or by telephone. The Chairmanship of the Commission shall rotate annually among the voting members of the Commission on an alphabetical basis, with the first chair ~~chairman~~ to be the State Commissioner representing the State of Alabama.

(f) All meetings of the Commission shall be open to the public.

(g) The ACF Basin Commission, so long as the exercise of power is consistent with this Compact, shall have the following general powers:

(1) To adopt bylaws and procedures governing its conduct;

(2) To sue and be sued in any court of competent jurisdiction;

(3) To retain and discharge professional, technical, clerical and other staff and such consultants as are necessary to accomplish the purposes of this Compact;

(4) To receive funds from any lawful source and expend funds for any lawful purpose;

(5) To enter into agreements or contracts, where appropriate, in order to accomplish the purposes of this Compact;

(6) To create committees and delegate responsibilities;

(7) To plan, coordinate, monitor, and make recommendations for the water resources of the ACF Basin for the purposes of, but not limited to, minimizing adverse impacts of floods and droughts and improving water quality, water supply, and conservation as may be deemed necessary by the Commission;

(8) To participate with other governmental and non-governmental entities in carrying out the purposes of this Compact;

(9) To conduct studies, to generate information regarding the water resources of the ACF Basin, and to share this information among the Commission members and with others;

(10) To cooperate with appropriate state, federal, and local agencies or any other person in the development, ownership, sponsorship, and operation of water resource facilities in the ACF Basin; provided, however, that the Commission shall not own or operate a federally-owned water resource facility unless authorized by the United States Congress;

(11) To acquire, receive, hold and convey such personal and real property as may be necessary for the performance of its duties under the Compact; provided, however, that nothing in this Compact shall be construed as granting the ACF Basin Commission authority to issue bonds or to exercise any right of eminent domain or power of condemnation;

(12) To establish and modify an allocation formula for apportioning the surface waters of the ACF Basin among the states of Alabama, Florida and Georgia; and

(13) To perform all functions required of it by this Compact and to do all things necessary, proper or convenient in the performance of its duties hereunder, either independently or in cooperation with any state or the United States.

ARTICLE VII
EQUITABLE APPORTIONMENT

(a) It is the intent of the parties to this Compact to develop an allocation formula for equitably apportioning the surface waters of the ACF Basin among the states while protecting the water quality, ecology and biodiversity of the ACF, as provided in the Clean Water Act, 33 U.S.C. Sections 1251 et seq., the Endangered Species Act, 16 U.S.C. Sections 1532 et seq., the

National Environmental Policy Act, 42 U.S.C. Sections 4321 et seq., the Rivers and Harbors Act of 1899, 33 U.S.C. Sections 401 et seq., and other applicable federal laws. For this purpose, all members of the ACF Basin Commission, including the Federal Commissioner, shall have full rights to notice of and participation in all meetings of the ACF Basin Commission and technical committees in which the basis and terms and conditions of the allocation formula are to be discussed or negotiated. When an allocation formula is unanimously approved by the State Commissioners, there shall be an agreement among the states regarding an allocation formula. The allocation formula thus agreed upon shall become effective and binding upon the parties to this Compact upon receipt by the Commission of a letter of concurrence with said formula from the Federal Commissioner. If, however, the Federal Commissioner fails to submit a letter of concurrence to the Commission within two hundred ten (210) days after the allocation formula is agreed upon by the State Commissioners, the Federal Commissioner shall within forty-five (45) days thereafter submit to the ACF Basin Commission a letter of nonconcurrence with the allocation formula setting forth therein specifically and in detail the reasons for nonconcurrence; provided, however, the reasons for nonconcurrence as contained in the letter of nonconcurrence shall be based solely upon federal law. The allocation formula shall also become effective and binding upon the parties to this Compact if the Federal Commissioner fails to submit to the ACF Basin Commission a letter of nonconcurrence in accordance with this Article. Once adopted pursuant to this Article, the allocation formula may only be modified by unanimous decision of the State Commissioners and the concurrence by the Federal Commissioner in accordance with the procedures set forth in this Article.

(b) The parties to this Compact recognize that the United States operates certain projects within the ACF Basin that may influence the water resources within the ACF Basin. The parties to this Compact further acknowledge and recognize that various agencies of the United States have responsibilities for administering certain federal laws and exercising certain federal powers that may influence the water resources within the ACF Basin. It is the intent of the parties to this Compact, including the United States, to achieve compliance with the allocation formula adopted in accordance with this Article. Accordingly, once an allocation formula is adopted, each and every officer, agency, and instrumentality of the United States shall have an obligation and duty, to the maximum extent practicable, to exercise their powers, authority, and discretion in a manner consistent with the allocation formula so long as the exercise of such powers, authority, and discretion is not in conflict with federal law.

(c) Between the effective date of this Compact and the approval of the allocation formula under this Article, the signatories to this Compact agree that any person who is withdrawing, diverting, or consuming water resources of the ACF Basin as of the effective date of this Compact, may continue to withdraw, divert or consume such water resources in accordance with the laws of the state where such person resides or does business and in accordance with applicable federal laws. The parties to this Compact further agree that any such person may increase the amount of water resources withdrawn, diverted or consumed to satisfy reasonable increases in the demand of such person for water between the effective date of this

Compact and the date on which an allocation formula is approved by the ACF Basin Commission as permitted by applicable law. Each of the state parties to this Compact further agree to provide written notice to each of the other parties to this Compact in the event any person increases the withdrawal, diversion or consumption of such water resources by more than 10 million gallons per day on an average annual daily basis, or in the event any person, who was not withdrawing, diverting or consuming any water resources from the ACF Basin as of the effective date of this Compact, seeks to withdraw, divert or consume more than one million gallons per day on an average annual daily basis from such resources. This Article shall not be construed as granting any permanent, vested or perpetual rights to the amounts of water used between January 3, 1992 and the date on which the Commission adopts an allocation formula.

(d) As the owner, operator, licensor, permitting authority or regulator of a water resource facility under its jurisdiction, each state shall be responsible for using its best efforts to achieve compliance with the allocation formula adopted pursuant to this Article. Each such state agrees to take such actions as may be necessary to achieve compliance with the allocation formula.

(e) This Compact shall not commit any state to agree to any data generated by any study or commit any state to any allocation formula not acceptable to such state.

ARTICLE VIII
CONDITIONS RESULTING IN
TERMINATION OF THE COMPACT

(a) This Compact shall be terminated and thereby be void and of no further force and effect if any of the following events occur:

(1) The legislatures of the states of Alabama, Florida and Georgia each agree by general laws enacted by each state within any three consecutive years that this Compact should be terminated.

(2) The United States Congress enacts a law expressly repealing this Compact.

(3) The States of Alabama, Florida and Georgia fail to agree on an equitable apportionment of the surface waters of the ACF as provided in Article VII(a) of this Compact by December 31, 1998, unless the voting members of the ACF Basin Commission unanimously agree to extend this deadline.

(4) The Federal Commissioner submits to the Commission a letter of nonconcurrence in the initial allocation formula in accordance with Article VII(a) of the Compact, unless the voting members of the ACF Basin Commission unanimously agree to allow a single 45 day period in which the nonvoting Federal Commissioner and the voting State Commissioners may renegotiate an allocation formula and the Federal Commissioner withdraws the letter of nonconcurrence upon completion of this renegotiation.

(b) If the Compact is terminated in accordance with this Article it shall be of no further force and effect and shall not be the subject of any proceeding for the enforcement thereof in any federal or state court. Further, if so terminated, no party shall be deemed to have acquired a specific right to any quantity of water because it has become a signatory to this Compact.

ARTICLE IX
COMPLETION OF STUDIES PENDING
ADOPTION OF ALLOCATION FORMULA

The ACF Basin Commission, in conjunction with one or more interstate, federal, state or local agencies, is hereby authorized to participate in any study in process as of the effective date of this Compact, including, without limitation, all or any part of the Alabama-Coosa-Tallapoosa/Apalachicola-Chattahoochee-Flint River Basin Comprehensive Water Resource Study, as may be determined by the Commission in its sole discretion.

ARTICLE X
RELATIONSHIP TO OTHER LAWS

(a) It is the intent of the party states and of the United States Congress by ratifying this Compact, that all state and federal officials enforcing, implementing or administering other state and federal laws affecting the ACF Basin shall, to the maximum extent practicable, enforce, implement or administer those laws in furtherance of the purposes of this Compact and the allocation formula adopted by the Commission insofar as such actions are not in conflict with applicable federal laws.

(b) Nothing contained in this Compact shall be deemed to restrict the executive powers of the President in the event of a national emergency.

(c) Nothing contained in this Compact shall impair or affect the constitutional authority of the United States or any of its powers, rights, functions or jurisdiction under other existing or future laws in and over the area or waters which are the subject of the Compact, including projects of the Commission, nor shall any act of the Commission have the effect of repealing, modifying or amending any federal law. All officers, agencies and instrumentalities of the United States shall exercise their powers and authority over water resources in the ACF Basin and water resource facilities, and to the maximum extent practicable, shall exercise their discretion in carrying out their responsibilities, powers, and authorities over water resources in the ACF Basin and water resource facilities in the ACF Basin in a manner consistent with and that effectuates the allocation formula developed pursuant to this Compact or any modification of the allocation formula so long as the actions are not in conflict with any applicable federal law. The United States Army Corps of Engineers, or its successors, and all other federal agencies and instrumentalities shall cooperate with the ACF Basin Commission in accomplishing the purposes of the Compact and fulfilling the obligations of each of the parties to the Compact regarding the allocation formula.

(d) Once adopted by the three states and ratified by the United States Congress, this Compact shall have the full force and effect of federal law, and shall supersede state and local laws operating contrary to the provisions herein or the purposes of this Compact; provided, however, nothing contained in this Compact shall be construed as affecting or intending to affect or in any way to interfere with the laws of the respective signatory states relating to water quality, and riparian rights as among persons exclusively within each state.

ARTICLE XI
PUBLIC PARTICIPATION

All meetings of the Commission shall be open to the public. The signatory parties recognize the importance and necessity of public participation in activities of the Commission, including the development and adoption of the initial allocation formula and any modification thereto. Prior to the adoption of the initial allocation formula, the Commission shall adopt procedures ensuring public participation in the development, review, and approval of the initial allocation formula and any subsequent modification thereto. At a minimum, public notice to interested parties and a comment period shall be provided. The Commission shall respond in writing to relevant comments.

ARTICLE XII
FUNDING AND EXPENSES OF THE COMMISSION

Commissioners shall serve without compensation from the ACF Basin Commission. All general operational funding required by the Commission and agreed to by the voting members shall obligate each state to pay an equal share of such agreed upon funding. Funds remitted to the Commission by a state in payment of such obligation shall not lapse; provided, however, that if any state fails to remit payment within 90 days after payment is due, such obligation shall terminate and any state which has made payment may have such payment returned. Costs of attendance and participation at meetings of the Commission by the Federal Commissioner shall be paid by the United States.

ARTICLE XIII
DISPUTE RESOLUTION

(a) In the event of a dispute between two or more voting members of this Compact involving a claim relating to compliance with the allocation formula adopted by the Commission under this Compact, the following procedures shall govern:

(1) Notice of claim shall be filed with the Commission by a voting member of this Compact and served upon each member of the Commission. The notice shall provide a written statement of the claim, including a brief narrative of the relevant matters supporting the claimant's position.

(2) Within twenty (20) days of the Commission's receipt of a written statement of a claim, the party or parties to the Compact against whom the complaint is made may prepare a brief narrative of the relevant matters and file it with the Commission and serve it upon each member of the Commission.

(3) Upon receipt of a claim and any response or responses thereto, the Commission shall convene as soon as reasonably practicable, but in no event later than twenty (20) days from receipt of any response to the claim, and shall determine if a resolution of the dispute is possible.

(4) A resolution of a dispute under this Article through unanimous vote of the State Commissioners shall be binding upon the state parties and any state party determined to be in violation of the allocation formula shall correct such violation without delay.

(5) If the Commission is unable to resolve the dispute within 10 days from the date of the meeting convened pursuant to subparagraph (a)(3) of this Article, the Commission shall select, by unanimous decision of the voting members of the Commission, an independent mediator to conduct a non-binding mediation of the dispute. The mediator shall not be a resident or domiciliary of any member state, shall not be an employee or agent of any member of the Commission, shall be a person knowledgeable in water resource management issues, and shall disclose any and all current or prior contractual or other relations to any member of the Commission. The expenses of the mediator shall be paid by the Commission. If the mediator becomes unwilling or unable to serve, the Commission by unanimous decision of the voting members of the Commission, shall appoint another independent mediator.

(6) If the Commission fails to appoint an independent mediator to conduct a non-binding mediation of the dispute within seventy-five (75) days of the filing of the original claim or within thirty (30) days of the date on which the Commission learns that a mediator is unwilling or unable to serve, the party submitting the claim shall have no further obligation to bring the claim before the Commission and may proceed by pursuing any appropriate remedies, including any and all judicial remedies.

(7) If an independent mediator is selected, the mediator shall establish the time and location for the mediation session or sessions and may request that each party to the Compact submit, in writing, to the mediator a statement of its position regarding the issue or issues in dispute. Such statements shall not be exchanged by the parties except upon the unanimous agreement of the parties to the mediation.

(8) The mediator shall not divulge confidential information disclosed to the mediator by the parties or by witnesses, if any, in the course of the mediation. All records, reports, or other documents received by a mediator while serving as a mediator shall be considered confidential. The mediator shall not be compelled in any adversary proceeding or judicial forum to divulge the contents of such documents or the fact that such documents exist or to testify in regard to the mediation.

(9) Each party to the mediation shall maintain the confidentiality of the information received during the mediation and shall not rely on or introduce in any judicial proceeding as evidence:

a. Views expressed or suggestions made by another party regarding a settlement of the dispute;

b. Proposals made or views expressed by the mediator; or

c. The fact that another party to the hearing had or had not indicated a willingness to accept a proposal for settlement of the dispute.

(10) The mediator may terminate the non-binding mediation session or sessions whenever, in the judgment of the mediator, further efforts to resolve the dispute would not lead to a resolution of the dispute between or among the parties. Any party to the dispute may terminate the mediation process at any time by giving written notification to the mediator and the Commission. If terminated prior to reaching a resolution, the party submitting the original claim to the Commission shall have no further obligation

to bring its claim before the Commission and may proceed by pursuing any appropriate remedies, including any and all judicial remedies.

(11) The mediator shall have no authority to require the parties to enter into a settlement of any dispute regarding the Compact. The mediator may simply attempt to assist the parties in reaching a mutually acceptable resolution of their dispute. The mediator is authorized to conduct joint and separate meetings with the parties to the mediation and to make oral or written recommendations for a settlement of the dispute.

(12) At any time during the mediation process, the Commission is encouraged to take whatever steps it deems necessary to assist the mediator or the parties to resolve the dispute.

(13) In the event of a proceeding seeking enforcement of the allocation formula, this Compact creates a cause of action solely for equitable relief. No action for money damages may be maintained. The party or parties alleging a violation of the Compact shall have the burden of proof.

(b) In the event of a dispute between any voting member and the United States relating to a state's noncompliance with the allocation formula as a result of actions or a refusal to act by officers, agencies or instrumentalities of the United States, the provisions set forth in paragraph (a) of this Article (other than the provisions of subparagraph (a)(4)) shall apply.

(c) The United States may initiate dispute resolution under paragraph (a) in the same manner as other parties to this Compact.

(d) Any signatory party who is affected by any action of the Commission, other than the adoption or enforcement of or compliance with the allocation formula, may file a complaint before the ACF Basin Commission seeking to enforce any provision of this Compact.

(1) The Commission shall refer the dispute to an independent hearing officer or mediator, to conduct a hearing or mediation of the dispute. If the parties are unable to settle their dispute through mediation, a hearing shall be held by the Commission or its designated hearing officer. Following a hearing conducted by a hearing officer, the hearing officer shall submit a report to the Commission setting forth findings of fact and conclusions of law, and making recommendations to the Commission for the resolution of the dispute.

(2) The Commission may adopt or modify the recommendations of the hearing officer within 60 days of submittal of the report. If the Commission is unable to reach unanimous agreement on the resolution of the dispute within 60 days of submittal of the report with the concurrence of the Federal Commissioner in disputes involving or affecting federal interests, the affected party may file an action in any court of competent jurisdiction to enforce the provisions of this Compact. The hearing officer's report shall be of no force and effect and shall not be admissible as evidence in any further proceedings.

(e) All actions under this Article shall be subject to the following provisions:

(1) The Commission shall adopt guidelines and procedures for the appointment of hearing officers or independent mediators to conduct all hear-

ings and mediations required under this Article. The hearing officer or mediator appointed under this Article shall be compensated by the Commission.

(2) All hearings or mediations conducted under this article may be conducted utilizing the Federal Administrative Procedures Act, the Federal Rules of Civil Procedure, and the Federal Rules of Evidence. The Commission may also choose to adopt some or all of its own procedural and evidentiary rules for the conduct of hearings or mediations under this Compact.

(3) Any action brought under this Article shall be limited to equitable relief only. This Compact shall not give rise to a cause of action for money damages.

(4) Any signatory party bringing an action before the Commission under this Article shall have the burdens of proof and persuasion.

ARTICLE XIV
ENFORCEMENT

The Commission may, upon unanimous decision, bring an action against any person to enforce any provision of this Compact, other than the adoption or enforcement of or compliance with the allocation formula, in any court of competent jurisdiction.

ARTICLE XV
IMPACTS ON OTHER STREAM SYSTEMS

This Compact shall not be construed as establishing any general principle or precedent applicable to any other interstate streams.

ARTICLE XVI
IMPACT OF COMPACT ON USE OF WATER
WITHIN THE BOUNDARIES
OF THE COMPACTING STATES

The provisions of this Compact shall not interfere with the right or power of any state to regulate the use and control of water within the boundaries of the state, providing such state action is not inconsistent with the allocation formula.

ARTICLE XVII
AGREEMENT REGARDING WATER QUALITY

(a) The States of Alabama, Florida, and Georgia mutually agree to the principle of individual State efforts to control man-made water pollution from sources located and operating within each State and to the continuing support of each State in active water pollution control programs.

(b) The States of Alabama, Florida, and Georgia agree to cooperate, through their appropriate State agencies, in the investigation, abatement, and control of sources of alleged interstate pollution within the ACF River Basin whenever such sources are called to their attention by the Commission.

(c) The States of Alabama, Florida, and Georgia agree to cooperate in maintaining the quality of the waters of the ACF River Basin.

(d) The States of Alabama, Florida, and Georgia agree that no State may require another state to provide water for the purpose of water quality control as a substitute for or in lieu of adequate waste treatment.

ARTICLE XVIII
EFFECT OF OVER OR UNDER DELIVERIES
UNDER THE COMPACT

No state shall acquire any right or expectation to the use of water because of any other state's failure to use the full amount of water allocated to it under this Compact.

ARTICLE XIX
SEVERABILITY

If any portion of this Compact is held invalid for any reason, the remaining portions, to the fullest extent possible, shall be severed from the void portion and given the fullest possible force, effect, and application.

ARTICLE XX
NOTICE AND FORMS OF SIGNATURE

Notice of ratification of this Compact by the legislature of each state shall promptly be given by the Governor of the ratifying state to the Governors of the other participating states. When all three state legislatures have ratified the Compact, notice of their mutual ratification shall be forwarded to the Congressional delegation of the signatory states for submission to the Congress of the United States for ratification. When the Compact is ratified by the Congress of the United States, the President, upon signing the federal ratification legislation, shall promptly notify the Governors of the participating states and appoint the Federal Commissioner. The Compact shall be signed by all four Commissioners as their first order of business at their first meeting and shall be filed of record in the party states.

Section 15. Paragraph (e) of subsection (8) of section 403.0752, Florida Statutes, is amended to read:

403.0752 Ecosystem management agreements.—

(8)

(e) A person who requests a binding ecosystem management agreement and as a part of that request seeks a permit, license, approval, variance, or waiver that is subject to a statutory application review time limit waives her or his right to a default permit, license, approval, variance, or waiver.

Section 16. Subsection (2) of section 440.442, Florida Statutes, is amended to read:

440.442 Code of Judicial Conduct.—The Chief Judge, and judges of compensation claims shall observe and abide by the Code of Judicial Conduct as provided in this section. Any material violation of a provision of the Code of Judicial Conduct shall constitute either malfeasance or misfeasance in office and shall be grounds for suspension and removal of such Chief Judge, or judge of compensation claims by the Governor.

(2) A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL HIS OR HER ACTIVITIES.—

(a) A judge should respect and comply with the law and should conduct himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

(b) A judge should not allow his or her personal relationships to influence his or her judicial conduct of judgment. A judge should not lend the prestige of the office to advance the private interest of others; nor convey or authorize others to convey the impression that they are in a special position to influence him or her. A judge should not testify voluntarily as a character witness.

Section 17. Subsection (1) of section 447.603, Florida Statutes, is amended to read:

447.603 Local option.—

(1) Any district school board or political subdivision, other than the state or a state public authority, may elect to adopt, by ordinance, resolution, or charter amendment, its own local option in lieu of the requirements of this part, provided such provisions and procedures thereby adopted effectively secure to public employees substantially equivalent rights and procedures as set forth in this part. However, notwithstanding any provision of s. 447.205 to the contrary, members of local commissions established pursuant to this section shall be appointed so that the composition of the local commission is as follows: One appointee shall be a person who, on account of previous vocation, employment, or affiliation, is or has been classified as a representative of employers; one appointee shall be a person who, on account of previous vocation, employment, or affiliation, is or has been classified as a representative of employees or employee organizations; and all other appointees, including alternates, shall be persons who, on account of previous vocation, employment, or affiliation, are not or have not been classified as representatives of employers, employees, or employee organizations. The chair ~~chairman~~ and all members of any such local commission shall be appointed for 4-year staggered terms. Neither the chair ~~chairman~~ nor any member shall be employed by, or hold any commission with, any governmental unit in the state or any employee organization while serving in such office.

Section 18. Paragraph (f) of subsection (1) of section 455.217, Florida Statutes, is amended to read:

455.217 Examinations.—This section shall be read in conjunction with the appropriate practice act associated with each regulated profession under this chapter.

(1) The Division of Technology, Licensure, and Testing of the Department of Business and Professional Regulation shall provide, contract, or approve services for the development, preparation, administration, scoring, score reporting, and evaluation of all examinations. The division shall seek the advice of the appropriate board in providing such services.

(f) If the professional board with jurisdiction over an examination concurs, the department may, for a fee, share with any other state's licensing authority an examination developed by or for the department unless prohibited by a contract entered into by the department for development or purchase of the examination. The department, with the concurrence of the appropriate board, shall establish guidelines that ensure security of a shared exam and shall require that any other state's licensing authority comply with those guidelines. Those guidelines shall be approved by the appropriate professional board. All fees paid by the user shall be applied to the department's examination and development program for professions regulated by this part. All fees paid by the user for professions not regulated by this part shall be applied to offset the fees for the development and administration of that profession's examination. If both a written and a practical examination are given, an applicant shall be required to retake only the portion of the examination for which he or she failed to achieve a passing grade, if he or she successfully passes that portion within a reasonable time of his or her passing the other portion.

Section 19. Subsection (1) of section 455.507, Florida Statutes, is amended to read:

455.507 Members of Armed Forces in good standing with administrative boards.—

(1) Any member of the Armed Forces of the United States now or hereafter on active duty who, at the time of ~~his~~ becoming such a member, was in good standing with any administrative board of the state and was entitled to practice or engage in her or his profession or vocation in the state shall be kept in good standing by such administrative board, without registering, paying dues or fees, or performing any other act on her or his part to be performed, as long as she or he is a member of the Armed Forces of the United States on active duty and for a period of 6 months after ~~his~~ discharge from active duty as a member of the Armed Forces of the United States, provided she or he is not engaged in her or his licensed profession or vocation in the private sector for profit.

Section 20. Section 455.511, Florida Statutes, is amended to read:

455.511 Restriction on requirement of citizenship.—A person is not disqualified from practicing an occupation or profession regulated by the state solely because she or he is not a United States citizen.

Section 21. Subsection (1) of section 455.541, Florida Statutes, is amended to read:

455.541 Accountability and liability of board members.—

(1) Each board member shall be accountable to the Governor for the proper performance of duties as a member of the board. The Governor shall investigate any legally sufficient complaint or unfavorable written report received by the Governor or by the department or a board concerning the actions of the board or its individual members. The Governor may suspend from office any board member for malfeasance, misfeasance, neglect of duty,

drunkenness, incompetence, permanent inability to perform his or her official duties, or commission of a felony.

Section 22. Subsection (2) of section 455.561, Florida Statutes, is amended to read:

455.561 Limited licenses.—

(2) Any person desiring to obtain a limited license, when permitted by rule, shall submit to the board, or the department when there is no board, an application and fee, not to exceed $300, and an affidavit stating that the applicant has been licensed to practice in any jurisdiction in the United States for at least 10 years in the profession for which the applicant seeks a limited license. The affidavit shall also state that the applicant has retired or intends to retire from the practice of that profession and intends to practice only pursuant to the restrictions of the limited license granted pursuant to this section. If the applicant for a limited license submits a notarized statement from the employer stating that the applicant will not receive monetary compensation for any service involving the practice of her or his profession, the application and all licensure fees shall be waived.

Section 23. Subsections (1), (4), and (10) of section 455.621, Florida Statutes, are amended to read:

455.621 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(1) The department, for the boards under its jurisdiction, shall cause to be investigated any complaint that is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this part, 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. In order to determine legal sufficiency, the department may require supporting information or documentation. The department may investigate, and the department or the appropriate board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates a desire not to cause the complaint to be investigated or prosecuted to completion. The department may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department has reason to believe, after preliminary inquiry, that the violations alleged in the complaint are true. The department may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The department may initiate an investigation if it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, or a rule of a board. Except as provided in ss. 458.331(9), 459.015(9), 460.413(5), and 461.013(6), when an investigation of any subject is undertaken, the department shall promptly furnish to the subject or the subject's attorney a copy of the complaint or document that resulted in the

initiation of the investigation. The subject may submit a written response to the information contained in such complaint or document within 20 days after service to the subject of the complaint or document. The subject's written response shall be considered by the probable cause panel. The right to respond does not prohibit the issuance of a summary emergency order if necessary to protect the public. However, if the secretary, or the secretary's designee, and the chair ~~chairman~~ of the respective board or the chair ~~chairman~~ of its probable cause panel agree in writing that such notification would be detrimental to the investigation, the department may withhold notification. The department may conduct an investigation without notification to any subject if the act under investigation is a criminal offense.

(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department, as appropriate. Each regulatory board shall provide by rule that the determination of probable cause shall be made by a panel of its members or by the department. Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board may provide by rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board's former or present consumer members, if one is available, is willing to serve, and is authorized to do so by the board chair ~~chairman~~. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profession. All proceedings of the panel are exempt from s. 286.011 until 10 days after probable cause has been found to exist by the panel or until the subject of the investigation waives his or her privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department or the agency. The probable cause panel or the department, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department. The secretary may grant extensions of the 15-day and the 30-day time limits. In lieu of a finding of probable cause, the probable cause panel, or the department if there is no board, may issue a letter of guidance to the subject. If, within the 30-day time limit, as may be extended, the probable cause panel does not make a determination regarding the existence of probable cause or does not issue a letter of guidance in lieu of a finding of probable cause, the department must make a determination regarding the existence of probable cause within 10 days after the expiration of the time limit. If the probable cause panel finds that probable cause exists, it shall direct the department to file a formal complaint against the licensee. The department shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department shall file a formal complaint

against the subject of the investigation and prosecute that complaint pursuant to chapter 120. However, the department may decide not to prosecute the complaint if it finds that probable cause has been improvidently found by the panel. In such cases, the department shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to chapter 120. The department shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department within 1 year after the filing of a complaint. The department, for disciplinary cases under its jurisdiction, must establish a uniform reporting system to quarterly refer to each board the status of any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. Annually, the department if there is no board, or each board must establish a plan to reduce or otherwise close any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from a trust fund used by the department to implement this part. All proceedings of the probable cause panel are exempt from s. 120.525.

(10) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his or her privilege of confidentiality, whichever occurs first. Upon completion of the investigation and pursuant to a written request by the subject, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 455.667, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 455.667. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days, unless an extension of time has been granted by the department. This subsection does not prohibit the department from providing such information to any law enforcement agency or to any other regulatory agency.

Section 24. Section 455.631, Florida Statutes, is amended to read:

455.631 Penalty for giving false information.—In addition to, or in lieu of, any other discipline imposed pursuant to s. 455.624, the act of knowingly giving false information in the course of applying for or obtaining a license from the department, or any board thereunder, with intent to mislead a public servant in the performance of his or her official duties, or the act of attempting to obtain or obtaining a license from the department, or any

board thereunder, to practice a profession by knowingly misleading statements or knowing misrepresentations constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 25. Subsection (2) of section 455.687, Florida Statutes, is amended to read:

455.687 Certain health care practitioners; immediate suspension of license.—

(2) If the board has previously found any physician or osteopathic physician in violation of the provisions of s. 458.331(1)(t) or s. 459.015(1)(x), in regard to her or his treatment of three or more patients, and the probable cause panel of the board finds probable cause of an additional violation of that section, then the Secretary of Health shall review the matter to determine if an emergency suspension or restriction order is warranted. Nothing in this section shall be construed so as to limit the authority of the secretary of the department to issue an emergency order.

Section 26. Subsection (5) of section 481.329, Florida Statutes, 1998 Supplement, is amended to read:

481.329 Exceptions; exemptions from licensure.—

(5) Nothing in this part prohibits any person from engaging in the practice of landscape design, as defined in s. 481.303(7). Persons providing landscape design services shall not use the title, term, or designation "landscape architect", "landscape architectural", "landscape architecture", "L.A.", "landscape engineering", or any description tending to convey the impression that she or he is a landscape architect unless she or he is registered as provided in this part.

Section 27. Paragraph (b) of subsection (1) of section 489.1195, Florida Statutes, 1998 Supplement, is amended to read:

489.1195 Responsibilities.—

(1) A qualifying agent is a primary qualifying agent unless he or she is a secondary qualifying agent under this section.

(b) Upon approval by the board, a business entity may designate a financially responsible officer for purposes of certification or registration. A financially responsible officer shall be responsible for all financial aspects of the business organization and may not be designated as the primary qualifying agent. The designated financially responsible officer shall furnish evidence of the financial responsibility, credit, and business reputation of either himself or herself, or the business organization he or she desires to qualify, as determined appropriate by the board.

Section 28. Paragraph (c) of subsection (1) of section 489.518, Florida Statutes, 1998 Supplement, is amended to read:

489.518 Alarm system agents.—

(1) A licensed electrical or alarm system contractor may not employ a person to perform the duties of a burglar alarm system agent unless the person:

(c) Has not been convicted within the last 3 years of a crime that directly relates to the business for which employment is being sought. Although the employee is barred from operating as an alarm system agent for 3 years subsequent to his or her conviction, the employer shall be supplied the information regarding any convictions occurring prior to that time, and the employer may at his or her discretion consider an earlier conviction to be a bar to employment as an alarm system agent. To ensure that this requirement has been met, a licensed electrical or alarm contractor must obtain from the Florida Department of Law Enforcement a completed fingerprint and criminal background check for each applicant for employment as a burglar alarm system agent or for each individual currently employed on the effective date of this act as a burglar alarm system agent.

Section 29. Paragraph (d) of subsection (4) of section 489.553, Florida Statutes, 1998 Supplement, is amended to read:

489.553 Administration of part; registration qualifications; examination.—

(4) To be eligible for registration by the department as a septic tank contractor, the applicant must:

(d) Have a total of at least 3 years of active experience serving an apprenticeship as a skilled worker ~~workman~~ under the supervision and control of a registered septic tank contractor or a plumbing contractor as defined in s. 489.105 who has provided septic tank contracting services. Related work experience or educational experience may be substituted for no more than 2 years of active contracting experience. Each 30 hours of coursework approved by the department will substitute for 6 months of work experience. Out-of-state work experience shall be accepted on a year-for-year basis for any applicant who demonstrates that he or she holds a current license issued by another state for septic tank contracting which was issued upon satisfactory completion of an examination and continuing education courses that are equivalent to the requirements in this state. For purposes of this section, an equivalent examination must include the topics of system location and installation, site evaluation, system size determinations, disposal of septage, construction standards for drainfield systems, and the soil-texture classification system of the United States Department of Agriculture. A person employed by and under the supervision of a licensed contractor shall be granted up to 2 years of related work experience.

Section 30. Subsection (1) of section 493.6305, Florida Statutes, is amended to read:

493.6305 Uniforms, required wear; exceptions.—

(1) Class “D” licensees shall perform duties regulated under this chapter in a uniform which bears at least one patch or emblem visible at all times clearly identifying the employing agency. Upon resignation or termination

of employment, a Class "D" licensee shall immediately return to the employer any uniform and any other equipment issued to her or him by the employer.

Section 31. Paragraph (b) of subsection (5) of section 501.925, Florida Statutes, is amended to read:

501.925 Used watches; sales regulated.—

(5) A watch shall be deemed to be used if:

(b) Its case serial numbers or movement numbers or other distinguishing numbers or identification marks are erased, defaced, removed, altered or covered; however, a watch will not be deemed used if such numbers or marks are erased, defaced, removed, altered, or covered by any person, firm, partnership, association, or corporation engaged in the business of selling watches who bought or acquired such watch for resale, but not for her or his use or the use of another, from an authorized dealer who bought or acquired such watch directly from its manufacturer, wholesaler, or distributor; or

Section 32. Paragraph (b) of subsection (12) of section 517.021, Florida Statutes, 1998 Supplement, is amended to read:

517.021 Definitions.—When used in this chapter, unless the context otherwise indicates, the following terms have the following respective meanings:

(12)

(b) The term "investment adviser" does not include the following:

1. Any licensed practicing attorney whose performance of such services is solely incidental to the practice of her or his profession;

2. Any licensed certified public accountant whose performance of such services is solely incidental to the practice of her or his profession;

3. Any bank authorized to do business in this state;

4. Any bank holding company as defined in the Bank Holding Company Act of 1956, as amended, authorized to do business in this state;

5. Any trust company having trust powers which it is authorized to exercise in the state, which trust company renders or performs services in a fiduciary capacity incidental to the exercise of its trust powers;

6. Any person who renders investment advice exclusively to insurance or investment companies;

7. Any person who does not hold herself or himself out to the general public as an investment adviser and has no more than 15 clients within 12 consecutive months in this state;

8. Any person whose transactions in this state are limited to those transactions described in s. 222(d) of the Investment Advisers Act of 1940. Those

clients listed in subparagraph 5. may not be included when determining the number of clients of an investment adviser for purposes of s. 222(d) of the Investment Advisers Act of 1940; or

9. A federal covered adviser.

Section 33. Paragraph (d) of subsection (4) and paragraph (b) of subsection (5) of section 608.4381, Florida Statutes, 1998 Supplement, are amended to read:

608.4381 Action on plan of merger.—

(4) The notification required by subsection (3) shall be in writing and shall include:

(d) A statement of, or a statement of the method of determining, the "fair value," as defined in s. 608.4384(1)(b), of an interest in the limited liability company, in the case of a limited liability company in which management is not reserved to its members, as determined by the managers of such limited liability company, which statement may consist of a reference to the applicable provisions of such limited liability company's articles of organization or regulations that determine the fair value of an interest in the limited liability company for such purposes, and which shall constitute an offer by the limited liability company to purchase at such fair value any interests of a "dissenter," as defined in s. 608.4384(1)(a), unless and until such dissenter's right to receive the fair value of his or her interests in the limited liability company is terminated pursuant to s. 608.4384(8).

(5) The notification required by subsection (3) shall be deemed to be given at the earliest date of:

(b) Five days after the date such notification is deposited in the United States mail addressed to the member at his or her address as it appears in the books and records of the limited liability company, with postage thereon prepaid;

Section 34. Paragraph (a) of subsection (1) and subsections (2), (3), (5), (8), and (10) of section 608.4384, Florida Statutes, 1998 Supplement, are amended to read:

608.4384 Rights of dissenting members.—

(1) For purposes of this section, the term:

(a) "Dissenter" means a member of a limited liability company who is a recordholder of the interests to which he or she seeks relief as of the date fixed for the determination of members entitled to notice of a plan of merger, who does not vote such interests in favor of the plan of merger, and who exercises the right to dissent from the plan of merger when and in the manner required by this section.

(2) Each member of a limited liability company that is a party to a merger shall have the right to be paid the fair value of his or her interests as a dissenter only as provided in this section.

(3) Not later than 20 days after the date on which the notification required by s. 608.4381(3) is given to the members, or if such notification is waived in writing by the dissenter, not later than 20 days after the date of such written waiver, the dissenter shall deliver to the limited liability company a written demand for payment to him or her of the fair value of the interests as to which the dissenter ~~he~~ seeks relief that states his or her address, the number and class, if any, of those interests, and, at the election of the dissenter, the amount claimed by him or her as the fair value of the interests. The statement of fair market value by the dissenter, if any, shall constitute an offer by the dissenter to sell the interests to the limited liability company at such amount. A dissenter may dissent as to less than all the interests registered in his or her name. In such event, the dissenter's rights shall be determined as if the interests as to which he or she has dissented and his or her remaining interests were registered in the names of different members. If the interests as to which a dissenter seeks relief are represented by certificates, the dissenter shall deposit such certificates with the limited liability company simultaneously with the delivery of the written demand for payment. Upon receiving a demand for payment from a dissenter who is a recordholder of uncertificated interests, the limited liability company shall make an appropriate notation of the demand for payment in its records. The limited liability company may restrict the transfer of uncertificated interests from the date the dissenter's written demand for payment is delivered. A written demand for payment served on the limited liability company in which the dissenter is a member shall constitute service on the surviving entity.

(5) Unless the articles of organization or regulations of the limited liability company in which the dissenter is a member provide a basis or method for determining and paying the fair value of the interests as to which the dissenter seeks relief, or unless the limited liability company or the surviving entity and the dissenter have agreed in writing as to the fair value of the interests as to which the dissenter seeks relief, the dissenter, the limited liability company, or the surviving entity, within 90 days after the dissenter delivers the written demand for payment to the limited liability company, may file an action in any court of competent jurisdiction in the county in this state where the registered office of the limited liability company is located or was located when the plan of merger was approved by its members, or in the county in this state in which the principal office of the limited liability company that issued the interests is located or was located when the plan of merger was approved by its partners, requesting that the fair value of the dissenter's interests be determined. The court shall also determine whether each dissenter that is a party to such proceeding, as to whom the limited liability company or the surviving entity requests the court to make such determination, is entitled to receive payment of the fair value for his or her interests. Other dissenters, within the 90-day period after a dissenter delivers a written demand to the limited liability company, may join such proceeding as plaintiffs or may be joined in any such proceeding as defendants, and any two or more such proceedings may be consolidated. If the limited liability company or surviving entity commences such a proceeding, all dissenters, whether or not residents of this state, other than dissenters who have agreed in writing with the limited liability company or the surviving entity as to the fair value of the interests as to which such dissenters seek

relief, shall be made parties to such action as an action against their interests. The limited liability company or the surviving entity shall serve a copy of the initial pleading in such proceeding upon each dissenter who is a party to such proceeding and who is a resident of this state in the manner provided by law for the service of a summons and complaint and upon each such dissenter who is not a resident of this state either by registered or certified mail and publication or in such matter as is permitted by law. The jurisdiction of the court in such a proceeding shall be plenary and exclusive. All dissenters who are proper parties to the proceeding are entitled to judgment against the limited liability company or the surviving entity for the amount of the fair value of their interests as to which payment is sought hereunder. The court may, if it so elects, appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have such power and authority as is specified in the order of their appointment or an amendment thereof. The limited liability company shall pay each dissenter the amount found to be due him or her within 10 days after final determination of the proceedings. Upon payment of the judgment, the dissenter shall cease to have any interest in the interests as to which payment is sought hereunder.

(8) The right of a dissenter to receive fair value for and the obligation to sell such interests as to which the dissenter ~~he~~ seeks relief, and the right of the limited liability company or the surviving entity to purchase such interests and the obligation to pay the fair value of such interests, shall terminate if:

(a) The dissenter has not complied with this section, unless the limited liability company or the surviving entity waives, in writing, such noncompliance;

(b) The limited liability company abandons the merger or is finally enjoined or prevented from carrying it out, or the members rescind their adoption or approval of the merger;

(c) The dissenter withdraws his or her demand, with the consent of the limited liability company or the surviving entity; or

(d)1. The articles of organization or the regulations of the limited liability company in which the dissenter was a member does not provide a basis or method for determining and paying the dissenter the fair value of his or her interests.

2. The limited liability company or the surviving entity and the dissenter have not agreed upon the fair value of the dissenter's interests.

3. Neither the dissenter, the limited liability company, nor the surviving entity has filed or is joined in a complaint under subsection (5) within the 90-day period provided in subsection (5).

(10) A member who is entitled under this section to demand payment for his or her interests shall not have any right at law or in equity to challenge the validity of any merger that creates his or her entitlement to demand payment hereunder, or to have the merger set aside or rescinded, except

with respect to compliance with the provisions of the limited liability company's articles of organization or regulations or if the merger is unlawful or fraudulent with respect to such member.

Section 35. Paragraph (d) of subsection (4) and paragraph (b) of subsection (5) of section 620.202, Florida Statutes, 1998 Supplement, are amended to read:

620.202 Action on plan of merger.—

(4) The notification required by subsection (3) shall be in writing and shall include:

(d) A statement of, or a statement of the method of determining, the "fair value," as defined in s. 620.205(1)(b), of an interest in the limited partnership as determined by the general partners of the limited partnership, which statement may consist of a reference to the applicable provisions of such limited partnership's partnership agreement that determine the fair value of an interest in the limited partnership for these purposes, and which shall constitute an offer by the limited partnership to purchase at such fair value any partnership interests of a "dissenter," as defined in s. 620.205(1)(a), unless and until such a dissenter's right to receive the fair value of his or her interests in the limited partnership is terminated pursuant to s. 620.205(8).

(5) The notification required by subsection (3) shall be deemed to be given at the earliest of:

(b) Five days after the date such notification is deposited in the United States mail addressed to the partner at his or her address as it appears in the books and records of the limited partnership, with postage thereon prepaid;

Section 36. Paragraph (a) of subsection (1) and subsections (2), (3), (5), (8), and (10) of section 620.205, Florida Statutes, 1998 Supplement, are amended to read:

620.205 Rights of dissenting partners.—

(1) For purposes of this section, the term:

(a) "Dissenter" means a partner of a domestic limited partnership who is a recordholder of the partnership interests to which he or she seeks relief as of the date fixed for the determination of partners entitled to notice of a plan of merger, who does not vote such interests in favor of the plan of merger, and who exercises the right to dissent from the plan of merger when and in the manner required by this section.

(2) Each partner of a domestic limited partnership that is a party to a merger shall have the right to be paid the fair value of his or her partnership interests as a dissenter as provided in this section.

(3) Not later than 20 days after the date on which the notification required by s. 620.202(3) is given to the partners, or if such notification was

waived in writing by the dissenter, not later than 20 days after the date of such written waiver, the dissenter shall deliver to the limited partnership a written demand for payment to him or her of the fair value of the interests as to which the dissenter ~~he~~ seeks relief that states his or her address, the number and class, if any, of those interests, and, at the election of the dissenter, the amount claimed by him or her as the fair value of the interests. The statement of fair market value by the dissenter, if any, shall constitute an offer by the dissenter to sell the partnership interests to the limited partnership for such amount. A dissenter may dissent as to less than all the partnership interests registered in his or her name. In such event, the dissenter's rights shall be determined as if the partnership interests as to which he or she has dissented and his or her remaining partnership interests were registered in the names of different partners. If the interests as to which a dissenter seeks relief are represented by certificates, the dissenter shall deposit such certificates with the limited partnership simultaneously with the delivery of the written demand for payment. Upon receiving a demand for payment from a dissenter who is a recordholder of uncertificated interests, the limited partnership shall make an appropriate notation of the demand for payment in its records. The limited partnership may restrict the transfer of uncertificated interests from the date the dissenter's written demand for payment is delivered. A written demand for payment served on the domestic limited partnership in which the dissenter is a partner shall constitute service on the surviving entity.

(5) Unless the partnership agreement of the limited partnership in which the dissenter is a partner provides a basis or method for determining and paying the fair value of the interests as to which the dissenter seeks relief, or unless the limited partnership or the surviving entity and the dissenter have agreed in writing as to the fair value of the interests as to which the dissenter seeks relief, the dissenter, the limited partnership, or the surviving entity, within 90 days after the dissenter delivers the written demand for payment to the limited partnership, may file an action in any court of competent jurisdiction in the county in this state where the registered office of the limited partnership is located or was located when the plan of merger was approved by its partners, or in the county in this state in which the principal office of the limited partnership that issued the partnership interests is located or was located when the plan of merger was approved by its partners, requesting a determination of the fair value of the dissenter's partnership interests. The court shall also determine whether each dissenter that is a party to such proceeding, as to whom the limited partnership or the surviving entity requests the court to make such determination, is entitled to receive payment of the fair value for his or her partnership interests. Other dissenters, within the 90-day period after a dissenter delivers a written demand to the partnership, may join such proceeding as plaintiffs or may be joined in any such proceeding as defendants, and any two or more such proceedings may be consolidated. If the limited partnership or surviving entity commences such a proceeding, all dissenters, whether or not residents of this state, other than dissenters who have agreed in writing with the limited partnership or the surviving entity as to the fair value of the partnership interests as to which such dissenters seek relief, shall be made parties to such action as an action against their partnership interests. The limited partnership or the surviving entity shall serve a copy of the

initial pleading in such proceeding upon each dissenter who is a party to such proceeding and who is a resident of this state in the manner provided by law for the service of a summons and complaint and upon each such dissenter who is not a resident of this state either by registered or certified mail and publication or in such manner as is permitted by law. The jurisdiction of the court in such a proceeding shall be plenary and exclusive. All dissenters who are proper parties to the proceeding are entitled to judgment against the limited partnership or the surviving entity for the amount of the fair value of their partnership interests as to which payment is sought hereunder. The court may, if it so elects, appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have such power and authority as is specified in the order of their appointment or an amendment thereof. The limited partnership shall pay each dissenter the amount found to be due him or her within 10 days after final determination of the proceedings. Upon payment of the judgment, the dissenter shall cease to have any interest in the partnership interests as to which payment is sought hereunder.

(8) The right of a dissenter to receive fair value for and the obligation to sell such partnership interests as to which the dissenter ~~he~~ seeks relief and the right of the domestic limited partnership or the surviving entity to purchase such interests and the obligation to pay the fair value of such interests shall terminate if:

(a) The dissenter has not complied with this section, unless the limited partnership or the surviving entity waives in writing such noncompliance;

(b) The limited partnership abandons the merger or is finally enjoined or prevented from carrying out the merger, or the partners rescind their adoption or approval of the merger;

(c) The dissenter withdraws his or her demand, with the consent of the limited partnership or the surviving entity; or

(d)1. The partnership agreement of the domestic limited partnership in which the dissenter was a partner does not provide a basis or method for determining and paying the dissenter the fair value of his or her partnership interests.

2. The limited partnership or the surviving entity and the dissenter have not agreed upon the fair value of the dissenter's partnership interests.

3. Neither the dissenter, the limited partnership, nor the surviving entity has filed or is joined in a complaint under subsection (5) within the 90-day period provided in that subsection.

(10) A partner who is entitled under this section to demand payment for his or her partnership interests shall not have any right at law or in equity to challenge the validity of any merger that creates his or her entitlement to demand payment hereunder, or to have the merger set aside or rescinded, except with respect to compliance with the provisions of the limited partnership's partnership agreement or if the merger is unlawful or fraudulent with respect to such partner.

Section 37. Subsection (3) of section 624.425, Florida Statutes, 1998 Supplement, is amended to read:

624.425 Resident agent and countersignature required, property, casualty, surety insurance.—

(3) An agent shall not sign or countersign in blank any policy to be issued outside her or his office, or countersign in blank any countersignature endorsement therefor, or certificate issued thereunder. An agent may give a written power of attorney to the issuing insurance company to countersign such documents by imprinting her or his name, or the name of the agency or other entity with which the agent may be sharing commission pursuant to s. 626.753(1)(a) and (2), thereon in lieu of manually countersigning such documents; but an agent shall not give a power of attorney to any other person to countersign any such document in her or his name unless the person so authorized is directly employed by the agent and by no other person, and is so employed in the office of the agent.

Section 38. Paragraph (d) of subsection (1) of section 626.321, Florida Statutes, 1998 Supplement, is amended to read:

626.321 Limited licenses.—

(1) The department shall issue to a qualified individual, or a qualified individual or entity under paragraphs (c), (d), and (e), a license as agent authorized to transact a limited class of business in any of the following categories:

(d) Baggage and motor vehicle excess liability insurance.—

1. License covering only insurance of personal effects except as provided in subparagraph 2. The license may be issued only:

a. To a full-time salaried employee of a common carrier or a full-time salaried employee or owner of a transportation ticket agency, which person is engaged in the sale or handling of transportation of baggage and personal effects of travelers, and may authorize the sale of such insurance only in connection with such transportation; or

b. To the full-time salaried employee of a licensed general lines agent, a full-time salaried employee of a business which offers motor vehicles for rent or lease, or to a business office of a business which offers motor vehicles for rent or lease if insurance sales activities authorized by the license are limited to full-time salaried employees.

The purchaser of baggage insurance shall be provided written information disclosing that the insured's homeowner's policy may provide coverage for loss of personal effects and that the purchase of such insurance is not required in connection with the purchase of tickets or in connection with the lease or rental of a motor vehicle.

2. A business office licensed pursuant to subparagraph 1., or a person licensed pursuant to subparagraph 1. who is a full-time salaried employee

of a business which offers motor vehicles for rent or lease, may include lessees under a master contract providing coverage to the lessor or may transact excess motor vehicle liability insurance providing coverage in excess of the standard liability limits provided by the lessor in its lease to a person renting or leasing a motor vehicle from the licensee's employer for liability arising in connection with the negligent operation of the leased or rented motor vehicle, provided that the lease or rental agreement is for not more than 30 days; that the lessee is not provided coverage for more than 30 consecutive days per lease period, and, if the lease is extended beyond 30 days, the coverage may be extended one time only for a period not to exceed an additional 30 days; that the lessee is given written notice that his or her personal insurance policy providing coverage on an owned motor vehicle may provide additional excess coverage; and that the purchase of the insurance is not required in connection with the lease or rental of a motor vehicle. The excess liability insurance may be provided to the lessee as an additional insured on a policy issued to the licensee's employer.

3. A business office licensed pursuant to subparagraph 1., or a person licensed pursuant to subparagraph 1. who is a full-time salaried employee of a business which offers motor vehicles for rent or lease, may, as an agent of an insurer, transact insurance that provides coverage for the liability of the lessee to the lessor for damage to the leased or rented motor vehicle if:

a. The lease or rental agreement is for not more than 30 days; or the lessee is not provided coverage for more than 30 consecutive days per lease period, but, if the lease is extended beyond 30 days, the coverage may be extended one time only for a period not to exceed an additional 30 days;

b. The lessee is given written notice that his <u>or her</u> personal insurance policy that provides coverage on an owned motor vehicle may provide such coverage with or without a deductible; and

c. The purchase of the insurance is not required in connection with the lease or rental of a motor vehicle.

Section 39. Paragraph (c) of subsection (1) and subsection (5) of section 626.7355, Florida Statutes, are amended to read:

626.7355 Temporary license as customer representative pending examination.—

(1) The department shall issue a temporary customer representative's license with respect to a person who has applied for such license upon finding that the person:

(c) Is a bona fide resident of this state or is a resident of another state sharing a common boundary with this state. An individual who is a bona fide resident of this state shall be deemed to meet the residence requirement of this paragraph, notwithstanding the existence at the time of application for license, of a license in his <u>or her</u> name on the records of another state as a resident licensee of such other state, if the applicant furnishes a letter of clearance satisfactory to the department that his or her resident licenses

have been canceled or changed to a nonresident basis and that he or she is in good standing.

(5) The applicant shall furnish the following with his or her application:

(a) Evidence that the applicant is enrolled in a customer representative educational qualification course which has been approved by the department.

(b) A certificate of employment and a report as to the applicant's integrity and moral character on a form prescribed by the department and executed by the supervising general lines insurance agent.

Section 40. Paragraph (a) of subsection (1) and subsection (6) of section 626.741, Florida Statutes, 1998 Supplement, are amended to read:

626.741 Nonresident agents; licensing and restrictions.—

(1) The department may, upon written application and the payment of the fees as specified in s. 624.501, issue a license as:

(a) A general lines agent to an individual who is otherwise qualified therefor, but who is not a resident of this state, if by the laws of the state of the individual's residence, residents of this state may be licensed in like manner as a nonresident agent of his or her state.

(6) Upon becoming a resident of this state, an individual who holds a Florida nonresident agent's license is no longer eligible for licensure as a nonresident agent if such individual fails to make application for a resident license and become licensed as a resident agent within 90 days. His or her license and any appointments shall be canceled immediately. He or she may apply for a resident license pursuant to s. 626.731.

Section 41. Subsection (8) of section 626.792, Florida Statutes, 1998 Supplement, is amended to read:

626.792 Nonresident agents.—

(8) Upon becoming a resident of this state, an individual who holds a Florida nonresident agent's license is no longer eligible for licensure as a nonresident agent if such individual fails to make application for a resident license and become licensed as a resident agent within 90 days. His or her license and any appointments shall be canceled immediately. He or she may apply for a resident license pursuant to s. 626.785.

Section 42. Subsection (1) of section 626.9325, Florida Statutes, is amended to read:

626.9325 Service fee.—

(1) The premiums charged for surplus lines insurance are subject to a service fee as provided in s. 626.921(3)(f). The surplus lines agent shall collect from the insured the amount of the fee at the time of the delivery of the policy, or other initial confirmation of insurance, in addition to the full

amount of the gross premium charged by the insurer for the insurance. The surplus lines agent is prohibited from absorbing such fee or, as an inducement for insurance or for any other reason, rebating all or any part of such fee or of his or her commission.

Section 43. Paragraph (d) of subsection (4) of section 627.70161, Florida Statutes, 1998 Supplement, is amended to read:

627.70161 Family day care insurance.—

(4) DENIAL, CANCELLATION, REFUSAL TO RENEW PROHIBITED.—An insurer may not deny, cancel, or refuse to renew a policy for residential property insurance solely on the basis that the policyholder or applicant operates a family day care home. In addition to other lawful reasons for refusing to insure, an insurer may deny, cancel, or refuse to renew a policy of a family day care home provider if one or more of the following conditions occur:

(d) Discovery of willful or grossly negligent acts or omissions or any violations of state laws or regulations establishing safety standards for family day care homes by the named insured or his or her representative which materially increase any of the risks insured.

Section 44. Paragraph (a) of subsection (2) of section 628.721, Florida Statutes, is amended to read:

628.721 Bylaws.—

(2) The bylaws shall provide:

(a) That each member is entitled to one vote upon each matter coming to a vote at meetings of members, or to more votes in accordance with a reasonable classification of members as set forth in the bylaws and based upon the amount of insurance in force with the mutual insurance holding company's subsidiaries, or upon the amount of the premiums paid to the mutual insurance holding company's subsidiaries by such member, or upon other reasonable factors. If a person's membership is based upon that person holding an insurance policy from a life insurer, the right to vote may be limited to those members whose policies are other than term and group policies and have been in effect for more than 1 year. A member has the right to vote in person or by her or his written proxy. No such proxy shall be made irrevocable or for longer than a reasonable period of time.

Section 45. Section 631.929, Florida Statutes, is amended to read:

631.929 Election of remedies.—An injured worker who has a date of accident which occurred before January 1, 1994, and is not receiving benefits due under chapter 440 due to the insolvency of a self-insurance fund or its successors, regardless of the date declared insolvent by the court, may elect to seek medical care, treatment, and attendance, and compensation required under ss. 440.15 and 440.16 from the corporation and forego the remedy to seek benefits from his or her employer or the insolvent self-insurance fund. An employee who so elects may be required to obtain medical care, treatment, and attendance through a managed care plan comporting with the

requirement of s. 440.134 if the plan of operation so provides. An injured worker has 60 days to seek benefits from the corporation upon ratification by the corporation of his or her right to elect a remedy under this part. If the injured worker elects to pursue his or her remedy under the provisions of this part, the corporation may, with the agreement of the injured employee, pay a lump-sum payment in exchange for the corporation's and employer's release from liability for future medical and compensation expenses, as well as any other benefit provided under chapter 440. However, there shall be no entitlement to attorney's fees, penalties, interest, or costs to be paid on any claim presented to the corporation under this part. This section shall not create any cause of action against any employer who purchased workers' compensation insurance coverage pursuant to s. 440.38.

Section 46. Subsection (4) of section 634.312, Florida Statutes, is amended to read:

634.312 Filing, approval of forms.—

(4) All home warranty contracts are assignable in a consumer transaction and must contain a statement informing the purchaser of the home warranty of her or his right to assign it, at least within 15 days from the date the home is sold or transferred, to a subsequent retail purchaser of the home covered by the home warranty and all conditions on such right of transfer. The home warranty company may charge an assignment fee not to exceed $40. Home warranty assignments include, but are not limited to, the assignment from a home builder who purchased the home warranty to a subsequent home purchaser.

Section 47. Subsection (5) of section 651.114, Florida Statutes, is amended to read:

651.114 Delinquency proceedings; remedial rights.—

(5) Should the department find that sufficient grounds exist for rehabilitation, liquidation, conservation, reorganization, seizure, or summary proceedings of an insurer as set forth in ss. 631.051, 631.061, and 631.071, the department may petition for an appropriate court order or may pursue such other relief as is afforded in part I of chapter 631. Before invoking its powers under part I of chapter 631, the department shall notify the chair ~~chairman~~ of the advisory council.

Section 48. Paragraph (a) of subsection (1) of section 667.006, Florida Statutes, is amended to read:

667.006 Conversion of state or federal mutual savings bank or state or federal mutual association to capital stock savings bank.—

(1) CONVERSION INTO CAPITAL STOCK SAVINGS BANK.—Any state or federal mutual savings bank or state or federal mutual association may apply to the department for permission to convert itself into a capital stock savings bank operated under the provisions of this chapter in accordance with the following procedures:

(a) The board of directors shall approve a plan of conversion by resolution adopted by a majority vote of all the directors. The plan shall include, but not be limited to:

1. Financial statements of the savings bank as of the last day of the month preceding adoption of the plan.

2. Such financial data as may be required to determine compliance with applicable regulatory requirements respecting financial condition.

3. A provision that each savings account holder of the mutual savings bank will receive a withdrawable account in the capital stock savings bank equal in amount to his or her withdrawable account in the mutual savings bank.

4. A provision that each member of record will be entitled to receive rights to purchase voting common stock.

5. Pro forma financial statements of the savings bank as a capital stock savings bank, which shall include data required to determine compliance with applicable regulatory requirements respecting financial condition.

6. With particularity, the business purpose to be accomplished by the conversion.

7. Such other information as the department may require by rule.

Section 49. Paragraphs (b) and (c) of subsection (1) of section 686.602, Florida Statutes, are amended to read:

686.602 Definitions of terms used in ss. 686.601-686.614.—In construing ss. 686.601-686.614, unless the context otherwise requires, the word, phrase, or term:

(1) "Dealer" or "servicing dealer" means a person who sells, solicits, or advertises the sale of new or used outdoor power equipment to the consuming public and services such equipment or a private business which has contracted with the manufacturer or distributor to sell such equipment at retail and services such equipment and which is required to undergo training in the sale and servicing of such equipment, but does not include:

(b) A public officer while performing his or her duties as such officer.

(c) A person making casual or isolated sales of his or her own outdoor power equipment not subject to sales tax under the laws of this state.

Section 50. Paragraph (a) of subsection (3) of section 686.604, Florida Statutes, is amended to read:

686.604 Warranty agreements; claims; compensation of dealers.—

(3)(a) The minimum lawful basis for compensating a dealer for warranty work, as provided for in this section, shall be calculated for labor in accordance with the reasonable and customary amount of time required to complete such work, expressed in hours and fractions of hours multiplied by the

dealer's established hourly retail labor rate. Prior to filing a claim for reimbursement for warranty work, the dealer must notify the applicable manufacturer, distributor, or wholesaler of her or his hourly retail labor rate.

Section 51. Paragraph (c) of subsection (3) of section 686.605, Florida Statutes, is amended to read:

686.605 Parts; availability; return.—

(3) Every manufacturer, distributor, and wholesaler shall provide to their dealers, annually, an opportunity to return a portion of their surplus parts inventories for credit. The surplus procedure shall be administered as follows:

(c) A manufacturer, distributor, or wholesaler must allow surplus parts return authority on a dollar value of parts equal to 6 percent of the total dollar value of parts purchased from the manufacturer, distributor, or wholesaler by the dealer during the 12-month period immediately preceding the notification to the dealer by the manufacturer, distributor, or wholesaler of the surplus parts return program, or the month the dealer's return request is made, whichever is applicable. However, the dealer may, at his or her option, elect to return a dollar value of his or her surplus parts equal to less than 6 percent of the total dollar value of parts purchased by the dealer from the manufacturer, distributor, or wholesaler during the preceding 12-month period as provided herein.

Section 52. Subsections (1), (2), and (5) of section 686.606, Florida Statutes, are amended to read:

686.606 Repurchase of inventory upon termination of dealer agreement.—

(1) Whenever any dealer enters into a dealer agreement with a manufacturer, distributor, or wholesaler in which agreement the dealer agrees to maintain an inventory of outdoor power equipment or repair parts and the agreement is subsequently voluntarily or involuntarily terminated, the manufacturer, distributor, or wholesaler shall repurchase the inventory as provided in this section. However, the dealer may keep the inventory if he or she desires. If the dealer has any outstanding debts to the manufacturer, distributor, or wholesaler, then the repurchase amount may be credited to the dealer's account.

(2) If the dealer decides not to keep the inventory, the manufacturer, distributor, or wholesaler shall repurchase that inventory previously purchased from him or her and held by the dealer on the date of termination of the contract. The manufacturer, distributor, or wholesaler shall pay:

(a) One hundred percent of the actual dealer cost, including freight, of all new, unsold, undamaged, and complete outdoor power equipment or other items of such equipment which are resalable, less a reasonable allowance for depreciation due to usage by the dealer and deterioration directly attributable to weather conditions at the dealer's location; and

(b) Eighty-five percent of the current wholesale price of all new, unused, and undamaged repair parts and accessories which are listed in the manufacturer's, distributor's, or wholesaler's current returnable parts list. The manufacturer, distributor, or wholesaler shall also pay the dealer 6 percent of the current wholesale price on all new, unused, and undamaged repair parts returned to cover the cost of handling, packing, and loading. However, the manufacturer, distributor, or wholesaler shall have the option of performing the handling, packing, and loading in lieu of paying the 6-percent sum imposed in this subsection for these services; and, in this event, after receipt by the dealer of the full repurchase amount as provided in this section, the dealer shall make available to the manufacturer, distributor, or wholesaler, at the dealer's address or at the places at which the outdoor power equipment is located, all outdoor power equipment previously purchased by the dealer.

(5) If any manufacturer, distributor, or wholesaler fails or refuses to repurchase any inventory covered under the provisions of this section within 60 days after termination of a dealer's contract, he or she is civilly liable for 100 percent of the current wholesale price of the inventory plus any freight charges paid by the dealer, the dealer's reasonable attorney's fees, court costs, and interest on the current wholesale price computed at the legal interest rate provided in s. 687.01 from the 61st day after termination.

Section 53. Paragraph (b) of subsection (3) of section 686.611, Florida Statutes, is amended to read:

686.611 Unlawful acts and practices.—Unfair methods of competition and unfair or deceptive acts or practices in the conduct of the manufacturing, distribution, wholesaling, sale, and advertising of outdoor power equipment are declared to be unlawful.

(3) It is deemed a violation of this section for a manufacturer, factory branch or division, distributor, distributor branch or division, wholesaler, or wholesale branch or division, or officer, agent, or other representative thereof:

(b) To coerce, compel, or attempt to coerce or compel any dealer to enter into any agreement, whether written or oral, supplementary to an existing dealer agreement with such manufacturer, factory branch or division, distributor, distributor branch or division, wholesaler, or wholesale branch or division, or officer, agent, or other representative thereof; or to do any other act prejudicial to such dealer by threatening to cancel any contractual agreement existing between such manufacturer, factory branch or division, distributor, distributor branch or division, wholesaler, or wholesale branch or division and such dealer. However, notice in good faith to any dealer of such dealer's violation or breach of any terms or provisions of such contractual agreement does not constitute a violation of this section if such notice is in writing and is mailed by registered or certified mail to such dealer at her or his current business address and such notice contains the specific facts as to the dealer's violation or breach of such contractual agreement.

Section 54. Subsections (1) and (5) of section 686.613, Florida Statutes, are amended to read:

686.613 Remedies.—

(1) In addition to temporary, preliminary, or final injunctive relief as provided in s. 686.611(3)(c)1., any person who is aggrieved or injured in his or her business or property by reason of anything forbidden in ss. 686.601-686.614 may bring an action therefor in the appropriate circuit court of this state and shall recover the actual damages sustained and the costs of such action, including a reasonable attorney's fee.

(5) The Department of Legal Affairs or the state attorney, if a violation of ss. 686.601-686.614 occurs in his or her judicial circuit, may bring an action for injunctive or other appropriate civil relief for any violation of ss. 686.601-686.614.

Section 55. Subsection (5) of section 721.84, Florida Statutes, 1998 Supplement, is amended to read:

721.84 Appointment of a registered agent; duties.—

(5) A registered agent may resign his or her agency appointment for any obligor for which he or she serves as registered agent, provided that:

(a) The resigning registered agent executes a written statement of resignation that identifies himself or herself and the street address of his or her registered office, and identifies the obligors affected by his or her resignation;

(b) A successor registered agent is appointed and such successor registered agent executes an acceptance of appointment as successor registered agent and satisfies all of the requirements of subsection (1). The resigning registered agent may designate the successor registered agent; however, if the resigning registered agent fails to designate a successor registered agent or the designated successor registered agent fails to accept, the successor registered agent for the affected obligors may be designated by the mortgagee as to the mortgage lien and by the association of the timeshare plan as to the assessment lien; and

(c) Copies of the statement of resignation and acceptance of appointment as successor registered agent are promptly mailed to the affected obligors at the obligors' last designated address shown on the records of the resigning registered agent and to the affected lienholders. The agency and registered office of the resigning registered agent are terminated and the agency and registered office of the successor registered agent are effective as of the 10th day after the date on which the statement of resignation and acceptance of appointment as successor registered agent are received by the lienholder, unless a longer period is provided in the statement of resignation and acceptance of appointment as successor registered agent.

Section 56. Paragraph (b) of subsection (2) of section 916.303, Florida Statutes, 1998 Supplement, is amended to read:

916.303 Determination of incompetency due to retardation or autism; dismissal of charges.—

(2)

(b) If the defendant is considered to need involuntary residential services under s. 393.11 and, further, there is a substantial likelihood that the defendant will injure another person or continues to present a danger of escape, and all available less restrictive alternatives, including services in community residential facilities or other community settings, which would offer an opportunity for improvement of the condition have been judged to be inappropriate, then the person or entity filing the petition under s. 393.11, the state attorney, the defendant's counsel, the petitioning commission, or the department may also petition the committing court to continue the defendant's placement in a secure facility or program pursuant to this section. Any defendant involuntarily admitted under this paragraph shall have his or her status reviewed by the court at least annually at a hearing. The annual review and hearing shall determine whether the defendant continues to meet the criteria for involuntary residential services and, if so, whether the defendant still requires placement in a secure facility or program because the court finds that the defendant is likely to physically injure others as specified in s. 393.11 and whether the defendant is receiving adequate care, treatment, habilitation, and rehabilitation, including psychotropic medication and behavioral programming. Notice of the annual review and review hearing shall be given to the state attorney and to the defendant's attorney. In no instance may a defendant's placement in a secure facility or program exceed the maximum sentence for the crime for which the defendant was charged.

Section 57. Paragraph (b) of subsection (1) of section 921.0024, Florida Statutes, 1998 Supplement, is amended to read:

921.0024 Criminal Punishment Code; worksheet computations; scoresheets.—

(1)

(b) WORKSHEET KEY:

Legal status points are assessed when any form of legal status existed at the time the offender committed an offense before the court for sentencing. Four (4) sentence points are assessed for an offender's legal status.

Community sanction violation points are assessed when a community sanction violation is before the court for sentencing. Six (6) sentence points are assessed for each community sanction violation, and each successive community sanction violation; however, if the community sanction violation includes a new felony conviction before the sentencing court, twelve (12) community sanction violation points are assessed for such violation, and for each successive community sanction violation involving a new felony conviction. Multiple counts of community sanction violations before the sentencing court shall not be a basis for multiplying the assessment of community sanction violation points.

Prior serious felony points: If the offender has a primary offense or any additional offense ranked in level 8, level 9, or level 10, and one or more prior

serious felonies, a single assessment of 30 points shall be added. For purposes of this section, a prior serious felony is an offense in the offender's prior record that is ranked in level 8, level 9, or level 10 under s. 921.0022 or s. 921.0023 and for which the offender is serving a sentence of confinement, supervision, or other sanction or for which the offender's date of release from confinement, supervision, or other sanction, whichever is later, is within 3 years before the date the primary offense or any additional offense was committed.

Prior capital felony points: If the offender has one or more prior capital felonies in the offender's criminal record, points shall be added to the subtotal sentence points of the offender equal to twice the number of points the offender receives for the primary offense and any additional offense. A prior capital felony in the offender's criminal record is a previous capital felony offense for which the offender has entered a plea of nolo contendere or guilty or has been found guilty; or a felony in another jurisdiction which is a capital felony in that jurisdiction, or would be a capital felony if the offense were committed in this state.

Possession of a firearm, semiautomatic firearm, or machine gun: If the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(2) while having in his or her possession: a firearm as defined in s. 790.001(6), an additional 18 sentence points are assessed; or if the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(3) while having in his or her possession a semiautomatic firearm as defined in s. 775.087(3) or a machine gun as defined in s. 790.001(9), an additional 25 sentence points are assessed.

Sentencing multipliers:

Drug trafficking: If the primary offense is drug trafficking under s. 893.135, the subtotal sentence points are multiplied, at the discretion of the court, for a level 7 or level 8 offense, by 1.5. The state attorney may move the sentencing court to reduce or suspend the sentence of a person convicted of a level 7 or level 8 offense, if the offender provides substantial assistance as described in s. 893.135(4).

Law enforcement protection: If the primary offense is a violation of the Law Enforcement Protection Act under s. 775.0823(2), the subtotal sentence points are multiplied by 2.5. If the primary offense is a violation of s. 775.0823(3), (4), (5), (6), (7), or (8), the subtotal sentence points are multiplied by 2.0. If the primary offense is a violation of s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement Protection Act under s. 775.0823(9) or (10), the subtotal sentence points are multiplied by 1.5.

Grand theft of a motor vehicle: If the primary offense is grand theft of the third degree involving a motor vehicle and in the offender's prior record, there are three or more grand thefts of the third degree involving a motor vehicle, the subtotal sentence points are multiplied by 1.5.

Criminal street gang member: If the offender is convicted of the primary offense and is found to have been a member of a criminal street gang at the time of the commission of the primary offense pursuant to s. 874.04, the subtotal sentence points are multiplied by 1.5.

Domestic violence in the presence of a child: If the offender is convicted of the primary offense and the primary offense is a crime of domestic violence, as defined in s. 741.28, which was committed in the presence of a child under 16 years of age who is a family household member as defined in s. 741.28(2) with the victim or perpetrator, the subtotal sentence points are multiplied, at the discretion of the court, by 1.5.

Section 58. Paragraph (c) of subsection (46) of section 985.03, Florida Statutes, 1998 Supplement, is amended to read:

985.03 Definitions.—When used in this chapter, the term:

(46) "Restrictiveness level" means the level of custody provided by programs that service the custody and care needs of committed children. There shall be five restrictiveness levels:

(c) Moderate-risk residential.—Youth assessed and classified for placement in programs in this restrictiveness level represent a moderate risk to public safety. Programs are designed for children who require close supervision but do not need placement in facilities that are physically secure. Programs in the moderate-risk residential restrictiveness level provide 24-hour awake supervision, custody, care, and treatment. Upon specific appropriation, a facility at this restrictiveness level may have a security fence around the perimeter of the grounds of the facility and may be hardware-secure or staff-secure. The staff at a facility at this restrictiveness level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary. Programs or program models in this restrictiveness level include: halfway houses, START Centers, the Dade Intensive Control Program, licensed substance abuse residential programs, and moderate-term wilderness programs designed for committed delinquent youth that are operated or contracted by the Department of Juvenile Justice. Section 985.3141 applies to children placed in programs in this restrictiveness level.

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

Approved by the Governor March 25, 1999.

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