

## Committee Substitute for Senate Bill No. 1194

An act relating to the Department of State; creating s. 250.115, F.S.; providing for the organization and operation of a direct-support organization for the Department of Military Affairs and the Florida National Guard; providing definitions; providing for a board of directors; providing for the use of property, facilities, and personal services of the Department of Military Affairs by the direct-support organization; providing restrictions; providing for submission of annual budgets and reports; amending s. 266.0016, F.S.; providing additional powers of the Historic Pensacola Preservation Board of Trustees; requiring the Division of Historical Resources and the Historic Pensacola Preservation Board of Trustees, in conjunction with specified entities, to develop a regionally based historic preservation plan for West Florida; providing elements of the plan; requiring submission of the plan to the Legislature by a specified date; amending s. 15.01, F.S.; striking a reference to performance by the Secretary of State of constitutional duties; amending s. 20.03, F.S.; redefining the term "cabinet" as used in provisions relating to the structure of the executive branch to conform to changes made to the State Constitution; amending s. 20.10, F.S.; providing for the structure of the Department of State and providing for the appointment, term of office, and duties of the head of the department; amending s. 30.17, F.S.; providing for phaseout of sheriff's execution docket; amending s. 30.231, F.S.; clarifying seizure of property for levy; amending s. 55.10, F.S.; increasing the time period to rerecord a lien in order to get the lien extended for a certain time; providing for application; creating s. 55.201, F.S.; requiring the Department of State to establish a database of judgment lien records; creating s. 55.202, F.S.; providing for acquisition of a judgment lien on personal property; creating s. 55.203, F.S.; providing requirements for the content, recording, and indexing of judgment lien certificates by the Department of State; creating s. 55.204, F.S.; providing for lapse of a judgment lien; providing for acquisition of a second judgment lien; creating s. 55.205, F.S.; providing for the effect of a judgment lien; creating s. 55.206, F.S.; providing for amendment, termination, partial release, assignment, continuation, tolling, or correction of a recorded judgment lien; creating s. 55.207, F.S.; providing for filing and effect of a correction statement as to a judgment lien record; creating s. 55.208, F.S.; providing for phaseout of the effect of writs of execution delivered to a sheriff prior to a date certain; creating s. 55.209, F.S.; providing for the responsibilities of the Department of State and for filing fees; amending s. 55.604, F.S.; eliminating requirement for the filing of a foreign judgment with the Department of State; conditioning the effect of a foreign judgment as a lien on personal property in this state based on the recording of a lien certificate; amending s. 56.21, F.S.; providing for notice of levy and execution sale and affidavit of levying creditor to judgment creditors and certain secured creditors; amending s. 56.27, F.S.; providing for distribution of money collected under execution; amending s. 56.29,

F.S.; clarifying who may file an affidavit for purposes of supplementary proceedings; amending s. 77.01, F.S.; providing entities with right to writ of garnishment; creating s. 77.041, F.S.; providing for notice of procedures for asserting exemptions and requesting a hearing; amending s. 77.055, F.S.; clarifying requirements for service of garnishee's answer and notice of right to dissolve writ of garnishment; amending s. 77.06, F.S.; providing for creation of judgment lien upon service of writ of garnishment; amending s. 222.01, F.S.; revising provisions relating to designation of homestead by the owner before levy; providing procedures; amending s. 222.12, F.S.; providing for taking of oath before notary public regarding exemptions from garnishment; amending s. 679.301, F.S.; revising the definition of a lien creditor; providing appropriations from the Corporations Trust Fund in the Department of State; amending s. 607.1901, F.S.; providing for the transfer of funds from the Corporations Trust Fund; amending ss. 112.3144, 112.3145, F.S.; transferring certain functions relating to the disclosure of financial interests by public officers and employees from the Department of State to the Florida Commission on Ethics; amending ss. 112.3148, 112.3149, F.S.; requiring that reports of certain gifts and honoraria be filed with the Commission on Ethics rather than the Secretary of State or Department of State; amending s. 257.36, F.S.; requiring district officers and agencies to comply with certain laws relating to the management of records and revising provisions governing the destruction or disposition of agency records; amending s. 267.072, F.S.; revising programs administered by the Division of Historical Resources of the Department of State; amending s. 288.8175, F.S.; transferring from the Department of Education to the Department of State certain functions relating to linkage institutes between certain educational institutions and foreign countries; amending s. 403.7145, F.S.; conforming provisions relating to the recycling programs for the capitol to changes made in the structure of the executive branch by the State Constitution; amending s. 415.1065, F.S., relating to records management; conforming a cross-reference to changes made by the act; amending s. 526.311, F.S.; revising enforcement provisions; transferring from the Department of Legal Affairs to the Department of Agriculture and Consumer Services responsibilities as the lead agency to enforce the Motor Fuel Marketing Practices Act; revising disposition of funds collected in civil actions; amending ss. 526.312 and 526.313, F.S., to conform; amending s. 526.3135, F.S.; specifying certain required reporting by the Division of Standards of the Department of Agriculture and Consumer Services; providing an appropriation; transferring, renumbering, and amending ss. 617.301-617.312, F.S., relating to homeowners' associations, to clarify that such provisions are not administered by the Division of Corporations of the Department of State; amending ss. 617.0601, 617.0701, 617.0721, 617.0831, 712.01, 723.0751, 849.085, 849.0931, F.S.; conforming cross-references; amending s. 849.094, F.S.; transferring from the Division of Licensing of the Department of State to the Department of Agriculture and Consumer Services certain functions relating to the regulation of game

promotions; amending s. 790.06, F.S.; prescribing additional standards for the Department of State to consider in issuing a license for a concealed weapon or firearm; requiring the Secretary of State to make a report to the Legislature on recommended statutory changes; transferring the John and Mable Ringling Museum of Art to Florida State University; creating s. 240.711, F.S.; creating the Ringling Center for Cultural Arts; providing for its governance, for a direct-support organization, and for operations; providing powers of the university and its agents and employees; repealing s. 265.26, F.S., relating to the Trustees of the John and Mable Ringling Museum of Art; repealing s. 265.261, F.S., relating to that museum's direct-support organization; amending s. 265.2861, F.S.; revising distributions from the Cultural Institutions Trust Fund; amending s. 565.02, F.S.; transferring the beverage license of the museum board of trustees to the direct-support organization; providing effective dates.

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

Section 1. Section 250.115, Florida Statutes, is created to read:

250.115 Department of Military Affairs direct-support organization.—

(1) DEFINITIONS.—For the purposes of this section:

(a) “Direct-support organization” means an organization that is:

1. A Florida corporation not for profit, incorporated under the provisions of chapter 617 and approved by the Department of State.

2. Organized and operated exclusively to raise funds; request and receive grants, gifts, bequests of moneys; acquire, receive, hold, invest, and administer in its own name securities, funds, or property; and make expenditures to or for the direct or indirect benefit of the Department of Military Affairs or the Florida National Guard.

3. Determined by the Department of Military Affairs to be operating in a manner consistent with the goals of the Department of Military Affairs and the Florida National Guard and in the best interest of the state. Any organization that is denied certification by the Adjutant General may not use the name of the Florida National Guard or the Department of Military Affairs in any part of its name or its publications.

(b) “Personal services” includes full-time or part-time personnel as well as payroll processing.

(2) BOARD OF DIRECTORS.—The organization shall be governed by a board of directors. The Adjutant General, or his or her designee, shall serve as president of the board. The board of directors shall consist of up to 15 members appointed by the Adjutant General. Up to 15 additional members shall be appointed by the board of directors. The terms of office of the members shall be 3 years. Members must be residents of the state and

highly knowledgeable about the United States military, its service personnel, and its missions. In making appointments, the board must consider a potential member's background in community service. The Adjutant General may remove any member for cause and shall fill vacancies that occur.

(3) USE OF PROPERTY.—

(a) The Adjutant General is authorized to permit the use of property, facilities, and personal services of the Department of Military Affairs by the direct-support organization, subject to the provisions of this section.

(b) The Adjutant General may prescribe by rule any condition with which a direct-support organization organized under this section must comply in order to use property, facilities, or personal services of the Department of Military Affairs.

(c) The Adjutant General may not permit the use of property, facilities, or personal services of the Department of Military Affairs by any direct-support organization organized under this section that does not provide equal employment opportunities to all persons regardless of race, color, national origin, sex, age, or religion.

(4) ACTIVITIES; RESTRICTIONS.—Any transaction or agreement between the direct-support organization organized pursuant to this section and another direct-support organization or center of technology innovation designated under s. 240.3335 must be approved by the Adjutant General.

(5) ANNUAL BUDGETS AND REPORTS.—The direct-support organization shall submit to the Adjutant General its federal Internal Revenue Service Application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

(6) ANNUAL AUDIT.—The direct-support organization shall make provisions for an annual postaudit of its financial accounts to be conducted by an independent certified public accountant in accordance with rules to be promulgated by the Adjutant General. The annual audit report shall be submitted to the Auditor General and the Adjutant General. The Adjutant General and the Auditor General may require and receive from the organization or its independent auditor any detail or supplemental data relative to the operation of the organization.

Section 2. Effective January 7, 2003, section 15.01, Florida Statutes, is amended to read:

15.01 Residence, office, and duties.—~~The Secretary of State shall reside at the seat of government and shall have her or his office in the Capitol and perform the duties prescribed by the State Constitution.~~ The Department of State shall have the custody of the constitution and Great Seal of this state, and of the original statutes thereof, and of the resolutions of the Legislature, and of all the official correspondence of the Governor. The department shall keep in its office a register and an index of all official letters, orders, communications, messages, documents, and other official acts issued or received by

the Governor or the Secretary of State, and record these in a book numbered in chronological order. The Governor, before issuing any order or transmission of any official letter, communication, or document from the executive office or promulgation of any official act or proceeding, except military orders, shall deliver the same or a copy thereof to the Department of State to be recorded.

Section 3. Effective January 7, 2003, subsection (1) of section 20.03, Florida Statutes, is amended to read:

20.03 Definitions.—To provide uniform nomenclature throughout the structure of the executive branch, the following definitions apply:

(1) “Cabinet” means collectively the ~~Secretary of State, Attorney General, the Chief Financial Officer, and the Comptroller, Treasurer, Commissioner of Agriculture, and Commissioner of Education,~~ as specified in s. 4, Art. IV of the State Constitution.

Section 4. Effective January 7, 2003, section 20.10, Florida Statutes, is amended to read:

20.10 Department of State.—There is created a Department of State.

(1) The head of the Department of State is the Secretary of State. The Secretary of State shall be appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor. The Secretary of State shall perform the functions conferred by the State Constitution upon the custodian of state records.

(2) The following divisions of the Department of State are established:

- (a) Division of Elections.
- (b) Division of Historical Resources.
- (c) Division of Corporations.
- (d) Division of Library and Information Services.
- (e) Division of Licensing.
- (f) Division of Cultural Affairs.
- (g) Division of Administration.

Section 5. Subsection (4) is added to section 30.17, Florida Statutes, to read:

30.17 Sheriff to keep an execution docket.—

(4) On October 1, 2001, the sheriff shall cease docketing newly delivered writs of executions. The sheriff shall maintain the existing docket until October 1, 2003. Upon the request of any person or entity who delivered a writ of execution to the sheriff before October 1, 2001, the sheriff shall provide written certification of the date on which the writ was delivered.

Except for any certification requested by a state agency or a political subdivision of the state, the sheriff shall charge a fixed, nonrefundable fee of \$20 for each certification. Fees collected under this section shall be disbursed in accordance with s. 30.231(5). The sheriff's duties under this section shall cease on October 1, 2003.

Section 6. Paragraph (d) of subsection (1) of section 30.231, Florida Statutes, is amended to read:

30.231 Sheriffs' fees for service of summons, subpoenas, and executions.—

(1) The sheriffs of all counties of the state in civil cases shall charge fixed, nonrefundable fees for docketing and service of process, according to the following schedule:

(d) Executions:

1. Twenty dollars for docketing and indexing each writ of execution, regardless of the number of persons involved.

2. Fifty dollars for each levy.

a. A levy is considered made when any property or any portion of the property listed or unlisted in the instructions for levy is seized, or upon demand of the sheriff the writ is satisfied by the defendant in lieu of seizure. Seizure requires that the sheriff take actual possession, if practicable, or, alternatively, constructive possession of the property by order of the court.

b. When the instructions are for levy upon real property, a levy fee is required for each parcel described in the instructions.

c. When the instructions are for levy based upon personal property, one fee is allowed, unless ~~although~~ the property is ~~may be~~ seized at different locations, conditional upon all of the items being advertised collectively and the sale being held at a single location. However, if the property seized cannot be sold at one location during the same sale as advertised, but requires separate sales at different locations, the sheriff is then authorized to impose a levy fee for the property and sale at each location.

3. Twenty dollars for advertisement of sale under process.

4. Twenty dollars for each sale under process.

5. Twenty dollars for each deed, bill of sale, or satisfaction of judgment.

Section 7. Effective July 1, 2000, section 55.10, Florida Statutes, is amended to read:

55.10 Judgments, orders, and decrees; lien of all, generally; extension of liens; transfer of liens to other security.—

(1) A judgment, order, or decree becomes a lien on real estate in any county when a certified copy of it is recorded in the official records or judgment lien record of the county, whichever is maintained at the time of

recording, and it shall be a lien for a period of 7 years from the date of the recording provided that the judgment, order, or decree contains the address of the person who has a lien as a result of such judgment, order, or decree or a separate affidavit is recorded simultaneously with the judgment, order, or decree stating the address of the person who has a lien as a result of such judgment, order, or decree. A judgment, order, or decree does not become a lien on real estate unless the address of the person who has a lien as a result of such judgment, order, or decree is contained in the judgment, order, or decree or an affidavit with such address is simultaneously recorded with the judgment, order, or decree.

(2) The lien provided for in subsection (1) may be extended for an additional period of 10 7 years, subject to the limitation in subsection (3), by rerecording a certified copy of the judgment, order, or decree prior to the within the 90-day period preceding the expiration of the lien provided for in subsection (1) and by simultaneously recording an affidavit with the current address of the person who has a lien as a result of the judgment, order, or decree. The one additional period of 10 years shall be effective from the date the judgment, order, or decree is rerecorded. The lien will not be extended unless the affidavit with the current address is simultaneously recorded.

~~(3) In the event the lien is extended under subsection (2), the lien of the judgment, order, or decree may be further extended by re-recording a certified copy of it within the 90-day period preceding the expiration of the lien provided for in subsection (2) and by simultaneously recording an affidavit with the current address of the person who has a lien as a result of such judgment, order, or decree. The lien will not be extended unless the affidavit with the current address is recorded.~~

~~(3)(4) In no event shall the lien upon real property created by this section subsections (1), (2), and (3) be extended beyond the period provided for in s. 55.081.~~

(4) Except as otherwise provided in this subsection, this act shall apply to all judgments, orders, and decrees of record which constitute a lien on real property immediately prior to the effective date of this act. Any judgment, order, or decree recorded prior to July 1, 1987, shall be unaffected by the changes in this act and shall remain a lien on real property until the period provided for in s. 55.081 expires or until the lien is satisfied, whichever occurs first.

~~(5) This section shall be deemed to operate prospectively.~~

~~(5)(6) Any lien claimed under this section subsections (1), (2), and (3) may be transferred, by any person having an interest in the real property upon which the lien is imposed or the contract under which the lien is claimed, from such real property to other security by either depositing in the clerk's office a sum of money or filing in the clerk's office a bond executed as surety by a surety insurer licensed to do business in this state. Such deposit or bond shall be in an amount equal to the amount demanded in such claim of lien plus interest thereon at the legal rate for 3 years plus \$500 to apply on any court costs which may be taxed in any proceeding to enforce said lien. Such deposit or bond shall be conditioned to pay any judgment, order, or decree~~

which may be rendered for the satisfaction of the lien for which such claim of lien was recorded and costs plus \$500 for court costs. Upon such deposit being made or such bond being filed, the clerk shall make and record a certificate showing the transfer of the lien from the real property to the security and mail a copy thereof by registered or certified mail to the lienor named in the claim of lien so transferred, at the address stated therein. Upon the filing of the certificate of transfer, the real property shall thereupon be released from the lien claimed, and such lien shall be transferred to said security. The clerk shall be entitled to a fee of \$10 for making and serving the certificate. If the transaction involves the transfer of multiple liens, an additional charge of \$5 for each additional lien shall be charged. Any number of liens may be transferred to one such security.

~~(6)~~(7) Any excess of the security over the aggregate amount of any judgments, orders, or decrees rendered, plus costs actually taxed, shall be repaid to the party filing the security or his or her successor in interest. Any deposit of money shall be considered as paid into court and shall be subject to the provisions of law relative to payments of money into court and the disposition of these payments.

~~(7)~~(8) Any party having an interest in such security or the property from which the lien was transferred may at any time, and any number of times, file a complaint in chancery in the circuit court of the county where such security is deposited for an order:

- (a) To require additional security;
- (b) To require reduction of security;
- (c) To require change or substitution of sureties;
- (d) To require payment or discharge thereof; or
- (e) Relating to any other matter affecting said security.

Section 8. Effective October 1, 2001, section 55.201, Florida Statutes, is created to read:

55.201 Central database of judgment liens on personal property.—The Department of State shall maintain a database of judgment lien records established in accordance with ss. 55.201-55.209.

Section 9. Effective October 1, 2001, section 55.202, Florida Statutes, is created to read:

55.202 Judgments, orders, and decrees; lien on personal property.—

(1) A judgment lien securing the unpaid amount of any money judgment may be acquired by the holder of a judgment entered by:

- (a) A court of this state;
- (b) A court of the United States having jurisdiction in this state;

(c) A court of the United States or any other state to the extent enforceable under the Florida Enforcement of Foreign Judgments Act, ss. 55.501-55.509;

(d) A foreign state as defined in the Uniform Out-of-Country Foreign Money-Judgment Recognition Act, ss. 55.601-55.607, from the time and to the extent enforceable thereunder;

(e) An issuing tribunal with respect to a support order being enforced in this state pursuant to chapter 88; or

(f) Operation of law pursuant to s. 61.14(6).

(2) A judgment lien may be acquired on the judgment debtor's interest in all personal property subject to execution in this state, other than fixtures, money, negotiable instruments, and mortgages.

(a) A judgment lien is acquired by recording a judgment lien certificate in accordance with s. 55.203 with the Department of State after the judgment has become final and if no stay of the judgment or its enforcement is in effect at the time the certificate is filed.

(b) For any tax lien or assessment granted by law to the state or any of the political subdivisions for any tax enumerated in s. 72.011, a judgment lien may be acquired by recording the lien or warrant with the Department of State.

(c) A judgment lien is effective as of the date of recording, but no lien attaches to property until the debtor acquires an interest in the property.

(d) Except as provided in s. 55.204(3), a judgment creditor may record only one effective judgment lien certificate based upon a particular judgment.

(3) Except as otherwise provided in s. 55.208, the priority of a judgment lien acquired in accordance with this section or s. 55.204(3) is established at the time the judgment lien is recorded. Such judgment lien is deemed recorded as of its effective date as provided in this section or s. 55.204(3).

(4) As used in ss. 55.201-55.209, the terms "holder of a judgment" and "judgment creditor" include the Department of Revenue with respect to a judgment being enforced by the Department of Revenue as the state IV-D agency.

(5) Liens, assessments, or judgments administered by or secured on behalf of any state agency or political subdivision of the state may be filed directly into the central database by such agency or subdivision through electronic or information data exchange programs approved by the Department of State.

Section 10. Effective October 1, 2001, section 55.203, Florida Statutes, is created to read:

55.203 Judgment lien certificate; content, recording, and indexing.—

(1) An original judgment lien certificate, as provided in s. 55.202, must include:

(a) The legal name of each judgment debtor and, if a recorded legal entity, the registered name and document filing number as shown in the records of the Department of State.

(b) The last known address and social security number, federal identification number, or, in the instance in which the judgment creditor is a state agency or a political subdivision of the state, a taxpayer or other distinct identification number of each judgment debtor, except that in cases of default judgment, the social security number must be included only if known, or federal employer identification number of each judgment debtor.

(c) The legal name of the judgment creditor and, if a recorded legal entity, the registered name and document filing number as shown in the records of the Department of State, and the name of the judgment creditor's attorney or duly authorized representative, if any.

(d) The address and social security number or federal employer identification number of the judgment creditor.

(e) The identity of the court which entered the judgment and the case number and the date the written judgment was entered.

(f) The amount due on the money judgment and the applicable interest rate.

(g) The signature of the judgment creditor or the judgment creditor's attorney or duly authorized representative.

(h) With respect to a lien created by a delivery of a writ of execution to a sheriff prior to October 1, 2001, an affidavit by the judgment creditor which attests that the person or entity possesses any documentary evidence of the date of delivery of the writ, and a statement of that date or a certification by the sheriff of the date as provided in s. 30.17(4).

(2) A second judgment lien certificate, as provided in s. 55.204(3), must include the information required in subsection (1) and must state the file number assigned to the record of the original judgment lien certificate, the money amount remaining unpaid, and the interest accrued thereon.

(3) An amendment, as provided in s. 55.206, or a correction statement, as provided in s. 55.207, must state the file number of the judgment lien record to which the amendment or correction statement relates and must state the action, change, or statement to be added.

(4) The Department of State shall examine, for compliance with ss. 55.201-55.209, each document submitted for recording and shall accept or reject the document accordingly. For each judgment lien certificate recorded, the department shall:

- (a) Create a record.
  - (b) Assign a unique file number to the record.
  - (c) Include the date of filing of the judgment lien certificate.
  - (d) Maintain the record in a database accessible to the public via the Internet.
  - (e) Index the judgment lien certificate according to the name of each judgment debtor.
  - (f) Index all subsequently filed documents relating to an original judgment lien certificate in a manner that associates them to the original judgment lien certificate.
- (5) The validity of a judgment lien certificate recorded under this section may not be defeated by technical or clerical errors made in good faith which are not seriously misleading, nor may any claim of estoppel be based on such errors.
- (6) The Department of State shall prescribe mandatory forms of all documents to be filed under this section.

Section 11. Effective October 1, 2001, section 55.204, Florida Statutes, is created to read:

55.204 Duration and continuation of judgment lien; destruction of records.—

(1) Except as provided in this section, a judgment lien acquired under s. 55.202 lapses and becomes invalid 5 years after the date of recording the judgment lien certificate.

(2) Liens securing the payment of child support or tax obligations as set forth in s. 95.091(1)(b) shall not lapse until 20 years after the date of the original filing of the warrant or other document required by law to establish a lien. No second lien based on the original filing may be obtained.

(3) At any time within 6 months before the scheduled lapse of a judgment lien under subsection (1), the judgment creditor may acquire a second judgment lien by recording a new judgment lien certificate. The second judgment lien becomes effective on the date of lapse of the original judgment lien or on the date on which the judgment lien certificate is recorded, whichever is later. The second judgment lien is deemed recorded on its effective date. The second judgment lien is deemed a new judgment lien and not a continuation of the original judgment lien. The second judgment lien permanently lapses and becomes invalid 5 years after its effective date, and no additional liens based on the original judgment may be obtained.

(4) A judgment lien continues only as to itemized property for an additional 90 days after lapse of the lien. Such judgment lien will continue only if:

(a) The property had been itemized and its location described with sufficient particularity in the instructions for levy;

(b) The levy had been delivered to the sheriff prior to the date of lapse of the lien to permit the sheriff to act; and

(c) The property was located in the county in which the sheriff has jurisdiction at the time of delivery of the instruction for levy. Subsequent removal of the property does not defeat the lien. A court may order continuation of the lien beyond the 90-day period on a showing that extraordinary circumstances have prevented levy.

(5) The date of lapse of a judgment lien whose enforceability has been temporarily stayed or enjoined as a result of any legal or equitable proceeding is tolled until 30 days after the stay or injunction is terminated.

(6) The Department of State shall maintain each judgment lien record and all information contained therein for a minimum of 1 year after the judgment lien lapses in accordance with this section.

Section 12. Effective October 1, 2001, section 55.205, Florida Statutes, is created to read:

55.205 Effect of judgment lien.—

(1) A valid judgment lien gives the judgment creditor the right to take possession of the property subject to levy through writ of execution, garnishment, or other judicial process. A judgment creditor who has not recorded a judgment lien certificate in accordance with s. 55.203 or whose lien has lapsed may nevertheless take possession of the judgment debtor's property through such other judicial process. A judgment creditor proceeding by writ of execution obtains a lien as of the time of levy and only on the property levied upon. Except as provided in s. 55.208, such judgment creditor takes subject to the claims and interest of priority judgment creditors.

(2) A buyer in the ordinary course of business as defined in s. 671.201(9) takes free of a judgment lien created under this section even though the buyer knows of its existence. A valid security interest as defined in chapter 679 in after-acquired property of the judgment debtor which is perfected prior to the effective date of a judgment lien takes priority over the judgment lien on the after-acquired property.

Section 13. Effective October 1, 2001, section 55.206, Florida Statutes, is created to read:

55.206 Amendment of judgment lien record; termination, partial release, assignment, continuation, tolling, correction.—

(1) An amendment to a judgment lien acquired under s. 55.202 may be recorded by the judgment creditor of record, which may provide for:

(a) The termination, partial release, or assignment of the judgment creditor's interest in a judgment lien;

(b) The continuation and termination of the continuation of a judgment lien, as provided in s. 55.204(4);

(c) The tolling and termination of the tolling of a lapse of a judgment lien, as provided in s. 55.204(5); or

(d) The correction or change of any other information provided in the record of a judgment lien.

(2) Within 30 days following receipt of a written demand by a judgment debtor after the obligation underlying a judgment lien has been fully or partially released, the judgment lienholder must deliver to the judgment debtor a written statement indicating that there is no longer a claim for a lien on the personal property of the judgment debtor or that the judgment lien has been partially released and setting forth the value of the lien remaining unpaid as of the date of the statement. A statement signed by an assignee must include or be accompanied by a separate written acknowledgement of assignment signed by the judgment creditor of record. If the judgment lienholder fails to deliver such a statement within 30 days after proper written demand therefor, the judgment lienholder is liable to the judgment debtor for \$100, and for any actual or consequential damages, including reasonable attorney's fees, caused by such failure to the judgment debtor.

(3) The judgment debtor, the judgment creditor, or assignee may file such statement with the Department of State.

Section 14. Effective October 1, 2001, section 55.207, Florida Statutes, is created to read:

55.207 Correction of judgment lien record.—

(1) A person may file with the Department of State a correction statement with respect to a judgment lien record, as provided in s. 55.203, indexed under the person's name, if the person believes that the record is inaccurate or that the judgment lien certificate was wrongfully filed.

(2) A correction statement must:

(a) State the judgment debtor named and the file number assigned to the judgment lien record to which the correction statement relates;

(b) Indicate that it is a correction statement;

(c) Provide the basis for the person's belief that the judgment lien certificate was wrongfully filed or the record is inaccurate; and

(d) Indicate the manner in which the person believes the record should be corrected to cure any inaccuracy.

(3) The department shall ensure that a correction statement is indexed and available in the same manner as any recorded lien certificate in the central database of judgment lien records.

(4) The filing of a correction statement does not affect the effectiveness of the judgment lien or other filed record.

Section 15. Effective October 1, 2001, section 55.208, Florida Statutes, is created to read:

55.208 Effect of recorded judgment lien on writs of execution previously delivered to a sheriff.—

(1) Any lien created by a writ of execution which has been delivered to the sheriff of any county before October 1, 2001, remains in effect for 2 years thereafter as to any property of the judgment debtor located in that county before October 1, 2001, and remaining within that county after that date. As to any property of the judgment debtor brought into the county on or after October 1, 2001, such writs create no lien, inchoate or otherwise.

(2) If a judgment creditor who has delivered a writ of execution to a sheriff in any county prior to October 1, 2001, properly files a judgment lien certificate with the Department of State by October 1, 2003, the resulting judgment lien is deemed recorded on the date the writ was delivered to the sheriff as to all leviable property of the judgment debtor which is located in that county on October 1, 2001, and that remains continuously in that county thereafter. As to all other property of the judgment debtor, the effective date of the judgment lien is as provided in s. 55.202. The duration of all judgment liens is as provided in s. 55.204, regardless of the date on which a lien is determined to have been recorded.

(3) If a judgment creditor who has delivered a writ of execution to a sheriff in any county before October 1, 2001, does not properly record a judgment lien certificate with the Department of State by October 1, 2003, such writ is considered to have been abandoned and to be of no effect after October 1, 2003.

Section 16. Effective October 1, 2001, section 55.209, Florida Statutes, is created to read:

55.209 Department of State; processing fees, responsibilities.—

(1) Except for liens, assessments, or judgments filed electronically by a state agency or a political subdivision of the state, as provided in s. 55.202(6), the Department of State shall collect the following nonrefundable processing fees for all documents filed or recorded in accordance with ss. 55.201-55.209:

(a) For any judgment lien certificate or other documents permitted to be filed, \$20.

(b) For the certification of any recorded document, \$10.

(c) For copies of judgment lien documents which are produced by the Department of State, \$1 per page or part thereof. However, no charge may be collected for copies provided in an online electronic format via the Internet.

(d) For indexing a judgment lien by multiple judgment debtor names, \$5 per additional name.

(e) For each additional facing page attached to a judgment lien certificate or document permitted to be filed or recorded, \$5.

(2) Unless otherwise provided by law, the Department of State may not conduct any search of the database established under s. 55.201 to determine the existence of any judgment lien record or to perform any service other than in connection with those services for which payment of services are required under this section. The information maintained in the database is for public notice purposes only and the department may make no certification or determination of the validity of any judgment lien acquired under ss. 55.202 and 55.204(3).

Section 17. Effective October 1, 2001, subsection (1) of section 55.604, Florida Statutes, is amended, and subsection (8) is added to that section, to read:

55.604 Recognition and enforcement.—Except as provided in s. 55.605, a foreign judgment meeting the requirements of s. 55.603 is conclusive between the parties to the extent that it grants or denies recovery of a sum of money. Procedures for recognition and enforceability of a foreign judgment shall be as follows:

(1) The foreign judgment shall be filed with ~~the Department of State and~~ the clerk of the court and recorded in the public records in the county or counties where enforcement is sought. ~~The filing with the Department of State shall not create a lien on any property.~~

(a) At the time of the recording of a foreign judgment, the judgment creditor shall make and record with the clerk of the circuit court an affidavit setting forth the name, social security number, if known, and last known post-office address of the judgment debtor and of the judgment creditor.

(b) Promptly upon the recording of the foreign judgment and the affidavit, the clerk shall mail notice of the recording of the foreign judgment, by registered mail with return receipt requested, to the judgment debtor at the address given in the affidavit and shall make a note of the mailing in the docket. The notice shall include the name and address of the judgment creditor and of the judgment creditor's attorney, if any, in this state. In addition, the judgment creditor may mail a notice of the recording of the judgment to the judgment debtor and may record proof of mailing with the clerk. The failure of the clerk to mail notice of recording will not affect the enforcement proceedings if proof of mailing by the judgment creditor has been recorded.

(8) A judgement lien on personal property is acquired only when a judgment lien certificate satisfying the requirements of s. 55.203 has been recorded with the Department of State.

Section 18. Effective October 1, 2001, section 56.21, Florida Statutes, is amended to read:

56.21 Execution sales; notice.—Notice of all sales under execution shall be given by advertisement once each week for 4 successive weeks in a newspaper published in the county in which the sale is to take place. The time of such notice may be shortened in the discretion of the court from which the execution issued, upon affidavit that the property to be sold is subject to decay and will not sell for its full value if held until date of sale. On or before the date of the first publication or posting of the notice of sale, a copy of the notice of sale shall be furnished by certified mail to the attorney of record of the judgment debtor, or to the judgment debtor at the judgment debtor's last known address if the judgment debtor does not have an attorney of record. Such copy of the notice of sale shall be mailed even though a default judgment was entered. When levying upon personal property, a notice of such levy and execution sale and a copy of the affidavit required by s. 56.27(4) shall be made by the levying creditor to the attorney of record of the judgment creditor or the judgment creditor who has recorded a judgment lien certificate as provided in s. 55.202 or s. 55.204(3) at the address listed in the judgment lien certificate, or, if amended, in any amendment to the judgment lien certificate, and to all secured creditors who have filed financing statements as provided in s. 679.401 in the name of the judgment debtor reflecting a security interest in property of the kind to be sold at the execution sale at the address listed in the financing statement, or, if amended, in any amendment to the financing statement. Such notice shall be made in the same manner as notice is made to any judgment debtor under this section. When levying upon real property, notice of such levy and execution sale shall be made to the property owner of record in the same manner as notice is made to any judgment debtor pursuant to this section. When selling real or personal property, the sale date shall not be earlier than 30 days after the date of the first advertisement.

Section 19. Effective October 1, 2001, section 56.27, Florida Statutes, is amended to read:

56.27 Executions; payment to ~~execution creditor~~ of money collected.—

(1) All money received under executions shall be paid, in the order prescribed, to the following: the sheriff, for costs; the levying creditor in the amount of \$500 as liquidated expenses; and the judgment lienholder having the earliest recorded judgment lien acquired under ss. 55.202 and 55.204(3), as set forth in an affidavit required by subsection (4), or his or her attorney, in satisfaction of the judgment lien, provided that the judgment lien has not lapsed at the time of the levy party in whose favor the execution was issued or his or her attorney. The receipt of the attorney shall be a release of the officer paying the money to him or her. When the name of more than one attorney appears in the court file, the money shall be paid to the attorney who originally commenced the action or who made the original defense unless the file shows that another attorney has been substituted.

(2) When property sold under execution brings more than the amount needed to satisfy the provisions of subsection (1), the surplus shall be paid in the order of priority to any judgment lienholders whose judgment liens have not lapsed. Priority shall be based on the effective date of the judgment lien acquired under s. 55.202 or s. 55.204(3), as set forth in an affidavit

required under subsection (4). If there is a surplus after all valid judgment liens and execution liens have been satisfied of the execution, the surplus must be paid to the defendant or, if there is another writ against the defendant docketed and indexed with the sheriff, the surplus must be paid to the junior writ.

(3) The value of the property levied upon shall not be considered excessive unless the value unreasonably exceeds the total debt reflected in all unsatisfied judgment liens that have not lapsed and any unsatisfied lien of the levying creditor.

(4) On or before the date of the first publication or posting of the notice of sale provided for under s. 56.21, the levying creditor shall file an affidavit setting forth the following as to the judgment debtor:

(a) An attestation that the levying creditor has reviewed the database or judgment lien records established in accordance with ss. 55.201-55.209 and that the information contained in the affidavit based on that review is true and correct;

(b) The information required under s. 55.203(1) and (2) for each judgment lien certificate indexed under the name of the judgment debtor as to each judgment creditor; the file number assigned to the record of the original and, if any, the second judgment lien; and the date of filing for each judgment lien certificate under s. 55.202 or s. 55.204(3); and

(c) A statement that the levying creditor either does not have any other levy in process or, if another levy is in process, the levying creditor believes in good faith that the total value of the property under execution does not exceed the amount of outstanding judgments.

(5) A sheriff paying money received under an execution in accordance with the information contained in the affidavit under subsection (4) is not liable to anyone for damages arising from a wrongful levy.

Section 20. Subsection (1) of section 56.29, Florida Statutes, is amended to read:

56.29 Proceedings supplementary.—

(1) When any person or entity sheriff holds an unsatisfied execution and has delivered a writ of execution to any sheriff, the plaintiff in execution may file an affidavit so stating and that the execution is valid and outstanding and thereupon is entitled to these proceedings supplementary to execution.

Section 21. Section 77.01, Florida Statutes, is amended to read:

77.01 Right to garnishment.—Every person or entity who has sued to recover a debt or has recovered judgment in any court against any person or entity, natural or corporate, has a right to a writ of garnishment, in the manner hereinafter provided, to subject any debt due or any debt under a negotiable instrument that will become due to defendant by a third person, and any tangible or intangible personal property of defendant in the possession or control of a third person. The officers, agents, and employees of any

companies or corporations are third persons in regard to the companies or corporations, and as such are subject to garnishment after judgment against the companies or corporations.

Section 22. Section 77.041, Florida Statutes, is created to read:

77.041 Notice to defendant for claim of exemption from garnishment; procedure for hearing.—

(1) Upon application for a writ of garnishment by a plaintiff, the clerk of the court shall attach to the writ the following “Notice to Defendant”:

NOTICE TO DEFENDANT OF RIGHT AGAINST GARNISHMENT  
OF WAGES, MONEY, AND OTHER PROPERTY

The Writ of Garnishment delivered to you with this Notice means that wages, money, and other property belonging to you have been garnished to pay a court judgment against you. HOWEVER, YOU MAY BE ABLE TO KEEP OR RECOVER YOUR WAGES, MONEY, OR PROPERTY. READ THIS NOTICE CAREFULLY.

State and federal laws provide that certain wages, money, and property, even if deposited in a bank, savings and loan, or credit union, may not be taken to pay certain types of court judgments. Such wages, money, and property are exempt from garnishment. The major exemptions are listed below on the form for Claim of Exemption and Request for Hearing. This list does not include all possible exemptions. You should consult a lawyer for specific advice.

TO KEEP YOUR WAGES, MONEY, AND OTHER PROPERTY FROM BEING GARNISHED, OR TO GET BACK ANYTHING ALREADY TAKEN, YOU MUST COMPLETE A FORM FOR CLAIM OF EXEMPTION AND REQUEST FOR HEARING AS SET FORTH BELOW AND HAVE THE FORM NOTARIZED. YOU MUST FILE THE FORM WITH THE CLERK'S OFFICE WITHIN 20 DAYS AFTER THE DATE YOU RECEIVE THIS NOTICE OR YOU MAY LOSE IMPORTANT RIGHTS. YOU MUST ALSO MAIL OR DELIVER A COPY OF THIS FORM TO THE PLAINTIFF AND THE GARNISHEE AT THE ADDRESSES LISTED ON THE WRIT OF GARNISHMENT.

If you request a hearing, it will be held as soon as possible after your request is received by the court. The plaintiff must file any objection within 2 business days if you hand delivered to the plaintiff a copy of the form for Claim of Exemption and Request for Hearing or, alternatively, 7 days if you mailed a copy of the form for claim and request to the plaintiff. If the plaintiff files an objection to your Claim of Exemption and Request for Hearing, the clerk will notify you and the other parties of the time and date of the hearing. You may attend the hearing with or without an attorney. If the plaintiff fails to file an objection, no hearing is required, the writ of garnishment will be dissolved and your wages, money, or property will be released.

YOU SHOULD FILE THE FORM FOR CLAIM OF EXEMPTION IMMEDIATELY TO KEEP YOUR WAGES, MONEY, OR PROPERTY FROM BEING APPLIED TO THE COURT JUDGMENT. THE CLERK

CANNOT GIVE YOU LEGAL ADVICE. IF YOU NEED LEGAL ASSISTANCE YOU SHOULD SEE A LAWYER. IF YOU CAN'T AFFORD A PRIVATE LAWYER, LEGAL SERVICES MAY BE AVAILABLE. CONTACT YOUR LOCAL BAR ASSOCIATION OR ASK THE CLERK'S OFFICE ABOUT ANY LEGAL SERVICES PROGRAM IN YOUR AREA.

CLAIM OF EXEMPTION AND REQUEST FOR HEARING

I claim exemptions from garnishment under the following categories as checked:

- \_\_\_\_\_ 1. Head of family wages. (You must check a or b below.)
  - \_\_\_\_\_ a. I provide more than one-half of the support for a child or other dependent and have net earnings of \$500 or less per week.
  - \_\_\_\_\_ b. I provide more than one-half of the support for a child or other dependent, have net earnings of more than \$500 per week, but have not agreed in writing to have my wages garnished.
- \_\_\_\_\_ 2. Social Security benefits.
- \_\_\_\_\_ 3. Supplemental Security Income benefits.
- \_\_\_\_\_ 4. Public assistance (welfare).
- \_\_\_\_\_ 5. Workers' Compensation.
- \_\_\_\_\_ 6. Unemployment Compensation.
- \_\_\_\_\_ 7. Veterans' benefits.
- \_\_\_\_\_ 8. Retirement or profit-sharing benefits or pension money.
- \_\_\_\_\_ 9. Life insurance benefits or cash surrender value of a life insurance policy or proceeds of annuity contract.
- \_\_\_\_\_ 10. Disability income benefits.
- \_\_\_\_\_ 11. Prepaid College Trust Fund or Medical Savings Account.
- \_\_\_\_\_ 12. Other exemptions as provided by law.  
\_\_\_\_\_ (explain)

I request a hearing to decide the validity of my claim. Notice of the hearing should be given to me at:

Address: \_\_\_\_\_

Telephone number: \_\_\_\_\_

The statements made in this request are true to the best of my knowledge and belief.

\_\_\_\_\_

Defendant's signature

Date \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

Sworn and subscribed to before me this ..... day of .....(month and year),  
by (name of person making statement).....

Notary Public/Deputy Clerk \_\_\_\_\_

Personally Known .....OR Produced Identification....

Type of Identification Produced.....

(2) The plaintiff must mail, by first class, a copy of the writ of garnishment, a copy of the motion for writ of garnishment, and the "Notice to Defendant" to the defendant's last known address within 5 business days after the writ is issued or 3 business days after the writ is served on the garnishee, whichever is later. However, if such documents are returned as undeliverable by the post office, or if the last known address is not discoverable after diligent search, the plaintiff must mail, by first class, the documents to the defendant at the defendant's place of employment. The plaintiff shall file in the proceeding a certificate of such service.

(3) Upon the filing by a defendant of a claim of exemption and request for hearing, a hearing will be held as soon as is practicable to determine the validity of the claimed exemptions. If the plaintiff does not file a sworn written statement that contests the defendant's claim of exemption within 2 business days after hand delivering the claim and request or, alternatively, 7 business days, if the claim and request were served by mail, no hearing is required and the clerk must automatically dissolve the writ and notify the parties of the dissolution by mail.

Section 23. Section 77.055, Florida Statutes, is amended to read:

77.055 Service of garnishee's answer and notice of right to dissolve writ Notice to defendant and other interested persons.—Within 5 days after service of the garnishee's answer on the plaintiff or after the time period for the garnishee's answer has expired, the plaintiff shall serve, by mail, the following documents: a copy of the writ, a copy of the garnishee's answer, and a notice advising, and a certificate of service. The notice shall advise the recipient that he or she must move to dissolve the writ of garnishment within 20 days after the date indicated on the certificate of service in the notice if any allegation in the plaintiff's motion for writ of garnishment is untrue within the time period set forth in s. 77.07(2) or be defaulted and that he or she may have exemptions from the garnishment which must be asserted as a defense. The plaintiff shall serve these documents on the defendant at the defendant's last known address and any other address disclosed by the garnishee's answer and on any other person disclosed in the garnishee's answer to have any ownership interest in the deposit, account, or property controlled by the garnishee. The plaintiff shall file in the proceeding a certificate of such service.

Section 24. Subsection (1) of section 77.06, Florida Statutes, is amended to read:

77.06 Writ; effect.—

(1) Service of the writ shall make garnishee liable for all debts due by him or her to defendant and for any tangible or intangible personal property of defendant in the garnishee's possession or control at the time of the service of the writ or at any time between the service and the time of the garnishee's answer. Service of the writ creates a lien in or upon any such debts or property at the time of service or at the time such debts or property come into the garnishee's possession or control.

Section 25. Effective July 1, 2000, section 222.01, Florida Statutes, is amended to read:

222.01 Designation of homestead by owner before levy.—

(1) Whenever any natural person residing in this state desires to avail himself or herself of the benefit of the provisions of the constitution and laws exempting property as a homestead from forced sale under any process of law, he or she may make a statement, in writing, containing a description of the real property, mobile home, or modular home claimed to be exempt and declaring that the real property, mobile home, or modular home is the homestead of the party in whose behalf such claim is being made. Such statement shall be signed by the person making it and shall be recorded in the circuit court.

(2) When a certified copy of a judgment has been filed in the public records of a county pursuant to s. 55.10, a person who is entitled to the benefit of the provisions of the State Constitution exempting real property as homestead and who has a contract to sell or a commitment from a lender for a mortgage on the homestead may file a notice of homestead in the public records of the county in which the homestead property is located in substantially the following form:

#### NOTICE OF HOMESTEAD

To:...(Name and address of judgment creditor as shown on recorded judgment and name and address of any other person shown in the recorded judgment to receive a copy of the Notice of Homestead)....

You are notified that the undersigned claims as homestead exempt from levy and execution under Section 4, Article X of the State Constitution, the following described property:

...(Legal description)...

The undersigned certifies, under oath, that he or she has applied for and received the homestead tax exemption as to the above-described property, that .... is the tax identification parcel number of this property, and that the undersigned has resided on this property continuously and uninterruptedly from ...(date)... to the date of this Notice of Homestead. Further, the undersigned will either convey or mortgage the above-described property pursuant to the following:

...(Describe the contract of sale or loan commitment by date, names of parties, date of anticipated closing, and amount. The name, address, and

telephone number of the person conducting the anticipated closing must be set forth.)...

The undersigned also certifies, under oath, that the judgment lien filed by you on ...(date)... and recorded in Official Records Book ...., Page ...., of the Public Records of ..... County, Florida, does not constitute a valid lien on the described property.

YOU ARE FURTHER NOTIFIED, PURSUANT TO SECTION 222.01 ET SEQ., FLORIDA STATUTES, THAT WITHIN 45 DAYS AFTER THE MAILING OF THIS NOTICE YOU MUST FILE AN ACTION IN THE CIRCUIT COURT OF ..... COUNTY, FLORIDA, FOR A DECLARATORY JUDGMENT TO DETERMINE THE CONSTITUTIONAL HOMESTEAD STATUS OF THE SUBJECT PROPERTY OR TO FORECLOSE YOUR JUDGMENT LIEN ON THE PROPERTY AND RECORD A LIS PENDENS IN THE PUBLIC RECORDS OF THE COUNTY WHERE THE HOMESTEAD IS LOCATED. YOUR FAILURE TO SO ACT WILL RESULT IN ANY BUYER OR LENDER, OR HIS OR HER SUCCESSORS AND ASSIGNS, UNDER THE ABOVE-DESCRIBED CONTRACT OF SALE OR LOAN COMMITMENT TO TAKE FREE AND CLEAR OF ANY JUDGMENT LIEN YOU MAY HAVE ON THE PROPERTY.

This .... day of ....., 2.....

.....  
...(Signature of Owner)...

.....  
...(Printed Name of Owner)...

.....  
...(Owner's Address)...

Sworn to and subscribed before me by ..... who is personally known to me or produced ..... as identification, this .... day of ....., 2.....

.....  
Notary Public

(3) The clerk shall mail a copy of the notice of homestead to the judgment lienor, by certified mail, return receipt requested, at the address shown in the most recent recorded judgment or accompanying affidavit, and to any other person designated in the most recent recorded judgment or accompanying affidavit to receive the notice of homestead, and shall certify to such service on the face of such notice and record the notice. Notwithstanding the use of certified mail, return receipt requested, service shall be deemed complete upon mailing.

(4) A lien pursuant to s. 55.10 of any lienor upon whom such notice is served, who fails to institute an action for a declaratory judgment to determine the constitutional homestead status of the property described in the notice of homestead or to file an action to foreclose the judgment lien, together with the filing of a lis pendens in the public records of the county in which the homestead is located, within 45 days after service of such notice

shall be deemed as not attaching to the property by virtue of its status as homestead property as to the interest of any buyer or lender, or his or her successors or assigns, who takes under the contract of sale or loan commitment described above within 180 days after the filing in the public records of the notice of homestead. This subsection shall not act to prohibit a lien from attaching to the real property described in the notice of homestead at such time as the property loses its homestead status.

(5) As provided in s. 4, Art. X of the State Constitution, this subsection shall not apply to:

(a) Liens and judgments for the payment of taxes and assessments on real property.

(b) Liens and judgments for obligations contracted for the purchase of real property.

(c) Liens and judgments for labor, services, or materials furnished to repair or improve real property.

(d) Liens and judgments for other obligations contracted for house, field, or other labor performed on real property.

Section 26. Section 222.12, Florida Statutes, is amended to read:

222.12 Proceedings for exemption.—Whenever any money or other thing due for labor or services as aforesaid is attached by such process, the person to whom the same is due and owing may make oath before the officer who issued the process or before a notary public that the money attached is due for the personal labor and services of such person, and she or he is the head of a family residing in said state. When such an affidavit is made, notice of same shall be forthwith given to the party, or her or his attorney, who sued out the process, and if the facts set forth in such affidavit are not denied under oath within 2 business days after the service of said notice, the process shall be returned, and all proceedings under the same shall cease. If the facts stated in the affidavit are denied by the party who sued out the process within the time above set forth and under oath, then the matter shall be tried by the court from which the writ or process issued, in like manner as claims to property levied upon by writ of execution are tried, and the money or thing attached shall remain subject to the process until released by the judgment of the court which shall try the issue.

Section 27. Subsections (2) and (3) of section 679.301, Florida Statutes, are amended to read:

679.301 Persons who take priority over unperfected security interests; right of “lien creditor.”—

(2) If the secured party files with respect to a purchase money security interest before or within 15 days after the debtor receives possession of the collateral, the secured party ~~he or she~~ takes priority over the rights of a transferee in bulk or of a lien creditor ~~which arise between the time the security interest attaches and the time of filing.~~

(3) A “lien creditor” means a creditor who has acquired a lien on the property involved by attachment, levy, or the like and includes a judgment lienholder as provided under ss. 55.202-55.209, an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment.

Section 28. There is hereby appropriated from the Corporations Trust Fund to the Department of State the following positions and funds to administer this act:

(1) Effective July 1, 2000, four full-time equivalent positions and \$274,858 in recurring salaries and benefits, \$200,000 in recurring expense, and \$442,753 in nonrecurring operating capital outlay; and

(2) Effective March 1, 2001, nine additional full-time equivalent positions and \$67,111 in recurring salaries and benefits and \$32,247 in nonrecurring operating capital outlay.

Section 29. Subsection (2) of section 607.1901, Florida Statutes, is amended to read:

607.1901 Corporations Trust Fund creation; transfer of funds.—

(2)(a) The Legislature shall appropriate from the fund such amounts as it deems necessary for the operation of the division.

(b) An amount equal to 2.9 percent of all moneys deposited each month in the fund is transferred to the Corporation Tax Administration Trust Fund created pursuant to s. 213.31.

(c) In the last six months of any fiscal year, an amount equal to 43 percent of all moneys deposited each month into the fund is transferred to the General Revenue Fund.

(d) The division shall transfer from the trust fund to the Cultural Institutions Trust Fund, quarterly, the amount of \$10 from each corporate annual report fee collected by the division and prorations transferring \$8 million each fiscal year, to be used as provided in s. 265.2861. Effective October 1, 2001, an additional \$2 million each fiscal year shall be transferred from the Corporations Trust Fund to the Cultural Institutions Trust Fund to be used as provided in s. 265.2861. The additional \$2 million is contingent upon the receipt of corresponding revenues collected under s. 55.209, as created by this act.

(e) The division shall transfer from the trust fund to the Cultural Institutions Trust Fund, quarterly, prorations transferring \$250,000 each fiscal year, to be used as provided in s. 265.609.

(f) The division shall transfer from the trust fund to the Cultural Institutions Trust Fund, quarterly, prorations transferring \$550,000 each fiscal year, to be used as provided in s. 265.608.

(g) The division shall transfer from the trust fund to the Historical Resources Operating Trust Fund, quarterly, prorations transferring \$2 million each fiscal year, to be used as provided in s. 267.0671.

(h) The division shall transfer from the trust fund to the Historical Resources Operating Trust Fund, quarterly, prorations transferring \$1.5 million each fiscal year, to be used as provided in s. 267.072.

(i) Effective October 1, 2001, the division shall transfer from the trust fund to the department's Grants and Donations Trust Fund quarterly prorations equaling not more than \$1.6 million each fiscal year, to be used in the provision of services under s. 288.816. The transfer of \$1.6 million is contingent upon the receipt of corresponding revenues collected under s. 55.209, as created by this act.

Section 30. Effective July 1, 2001, section 112.3144, Florida Statutes, is amended to read:

112.3144 Full and public disclosure of financial interests.—

(1) An officer who is required by s. 8, Art. II of the State Constitution to file a full and public disclosure of his or her financial interests for any calendar or fiscal year shall file that disclosure with the Florida Commission on Ethics.

~~(2)~~(1) No person who is required, pursuant to s. 8, Art. II of the State Constitution, to file a full and public disclosure of financial interests and who has filed a full and public disclosure of financial interests for any calendar or fiscal year shall be required to file a statement of financial interests pursuant to s. 112.3145(2) and (3) for the same year or for any part thereof notwithstanding any requirement of this part, except that a candidate for office shall file a copy of his or her disclosure with the officer before whom he or she qualifies.

~~(3)~~(2) For purposes of full and public disclosure under s. 8(a), Art. II of the State Constitution, the following items, if not held for investment purposes and if valued at over \$1,000 in the aggregate, may be reported in a lump sum and identified as “household goods and personal effects”:

- (a) Jewelry;
- (b) Collections of stamps, guns, and numismatic properties;
- (c) Art objects;
- (d) Household equipment and furnishings;
- (e) Clothing;
- (f) Other household items; and
- (g) Vehicles for personal use.

~~(4)~~(3) Forms for compliance with the full and public disclosure requirements of s. 8, Art. II of the State Constitution, ~~and a current list of persons~~

required to file full and public disclosure by s. 8, Art. II of the State Constitution, or other state law, shall be created provided by the Commission on Ethics. The commission to the Secretary of State, who shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:

(a) Not later than May 1 of each year, the ~~commission on Ethics~~ shall prepare a current list of the names and addresses of and the offices held by every person required to file full and public disclosure annually by s. 8, Art. II of the State Constitution, or other state law, ~~and shall provide the Secretary of State with the mailing list.~~ In compiling the list, the commission shall be assisted by each unit of government in providing at the request of the commission the name, address, and name of the office held by each public official within the respective unit of government.

(b) Not later than 30 days before July 1 of each year, the commission Secretary of State shall mail a copy of the form prescribed for compliance with full and public disclosure and a notice of the filing deadline to each person on the mailing list.

(c) Not later than 30 days after July 1 of each year, the commission Secretary of State shall determine which persons on the mailing list have failed to file full and public disclosure and shall send delinquency notices by certified mail to such persons. Each notice shall state that a grace period is in effect until September 1 of the current year ~~and that, if the statement is not filed by September 1 of the current year, the Secretary of State is required by law to notify the Commission on Ethics of the delinquency.~~

~~(d) Not later than 30 days following September 1 of each year, the Secretary of State shall certify to the Commission on Ethics a list of the names and addresses of and the offices held by all persons on the mailing list who have failed to timely file full and public disclosure. The certification shall be on a form prescribed by the commission and shall indicate whether the Secretary of State has provided the disclosure forms and notice as required by this section to all persons named on the delinquency list.~~

~~(d)(e)~~ Any person subject to the annual filing of full and public disclosure under s. 8, Art. II of the State Constitution, or other state law, whose name is not on the commission's mailing list of persons required to file full and public disclosure ~~provided to the Secretary of State~~ shall not be deemed delinquent for failure to file full and public disclosure in any year in which the omission occurred.

~~(e)(f)~~ The notification requirements of this subsection do not apply to candidates or to the first filing required of any person appointed to elective constitutional office. The appointing official shall notify such newly appointed person of the obligation to file full and public disclosure by July 1.

Section 31. Effective July 1, 2001, paragraph (c) of subsection (2) and subsections (4) and (6) of section 112.3145, Florida Statutes, are amended to read:

112.3145 Disclosure of financial interests and clients represented before agencies.—

(2)

(c) State officers, ~~persons qualifying for a state office,~~ and specified state employees shall file their statements of financial interests with the Commission on Ethics ~~Secretary of State~~. Local officers shall file their statements of financial interests with the supervisor of elections of the county in which they permanently reside. Local officers who do not permanently reside in any county in the state shall file their statements of financial interests with the supervisor of elections of the county in which their agency maintains its headquarters. Persons seeking to qualify as candidates for local public office shall file their statements of financial interests with the officer before whom they qualify.

(4) Each elected constitutional officer, state officer, local officer, and specified state employee shall file a quarterly report of the names of clients represented for a fee or commission, except for appearances in ministerial matters, before agencies at his or her level of government. For the purposes of this part, agencies of government shall be classified as state-level agencies or agencies below state level. Each local officer shall file such report with the supervisor of elections of the county in which the officer is principally employed or is a resident. Each state officer, elected constitutional officer, and specified state employee shall file such report with the commission ~~Secretary of State~~. The report shall be filed only when a reportable representation is made during the calendar quarter and shall be filed no later than 15 days after the last day of the quarter. Representation before any agency shall be deemed to include representation by such officer or specified state employee or by any partner or associate of the professional firm of which he or she is a member and of which he or she has actual knowledge. For the purposes of this subsection, the term “representation before any agency” does not include appearances before any court or Chief Judges of Compensation Claims or judges of compensation claims or representations on behalf of one’s agency in one’s official capacity. Such term does not include the preparation and filing of forms and applications merely for the purpose of obtaining or transferring a license based on a quota or a franchise of such agency or a license or operation permit to engage in a profession, business, or occupation, so long as the issuance or granting of such license, permit, or transfer does not require substantial discretion, a variance, a special consideration, or a certificate of public convenience and necessity.

(6) Forms for compliance with the disclosure requirements of this section and a current list of persons subject to disclosure shall be provided by the Commission on Ethics ~~to the Secretary of State and~~ to each supervisor of elections, who shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:

(a)1. Not later than May 1 of each year, the Commission on Ethics shall prepare a current list of the names and addresses of, and the offices or positions held by, every state officer, local officer, and specified employee. In compiling the list, the commission shall be assisted by each unit of government in providing, at the request of the commission, the name, address,

and name of agency of, and the office or position held by, each state officer, local officer, or specified state employee within the respective unit of government.

2. ~~Not later than May 15 of each year, the commission shall provide the Secretary of State with a current mailing list of all state officers and specified employees and shall provide each supervisor of elections with a current mailing list of all local officers required to file with such supervisor of elections.~~

(b) ~~Not later than 30 days before July 1 of each year, the commission Secretary of State and each supervisor of elections, as appropriate, shall mail a copy of the form prescribed for compliance with subsection (3) and a notice of all applicable disclosure forms and filing deadlines to each person required to file a statement of financial interests.~~

(c) ~~Not later than 30 days after July 1 of each year, the commission Secretary of State and each supervisor of elections shall determine which persons required to file a statement of financial interests in their respective offices have failed to do so and shall send delinquency notices by certified mail to such persons. Each notice shall state that a grace period is in effect until September 1 of the current year; that no investigative or disciplinary action based upon the delinquency will be taken by the agency head or Commission on Ethics if the statement is filed by September 1 of the current year; that, if the statement is not filed by September 1 of the current year, he or she is required by law to notify the Commission on Ethics of the delinquency; and that, if upon the filing of a sworn complaint the commission finds that the person has failed to timely file the statement by September 1 of the current year, such person shall be subject to the penalties provided in s. 112.317.~~

(d) ~~Not later than 30 days following September 1 of each year, the Secretary of State and the supervisor of elections in each county shall certify to the Commission on Ethics a list of the names and addresses of, and the offices or positions held by, all persons who have failed to timely file the required statements of financial interests. The certification shall be on a form prescribed by the commission and shall indicate whether the respective certifying official has provided the disclosure forms and notice as required by this subsection to all persons named on the delinquency list.~~

(e) ~~Any state officer, local officer, or specified employee whose name is not on the mailing list of persons required to file statements of financial interests provided to the Secretary of State or supervisor of elections is not subject to the penalties provided in s. 112.317 for failure to timely file a statement of financial interests in any year in which the omission occurred.~~

(f) ~~The requirements of this subsection do not apply to candidates or to the first filing required of any state officer, specified employee, or local officer.~~

Section 32. Effective July 1, 2001, paragraph (b) of subsection (5), paragraph (d) of subsection (6), and paragraph (a) of subsection (8) of section 112.3148, Florida Statutes, are amended to read:

112.3148 Reporting and prohibited receipt of gifts by individuals filing full or limited public disclosure of financial interests and by procurement employees.—

(5)

(b) However, a person who is regulated by this subsection, who is not regulated by subsection (6), and who makes, or directs another to make, an individual gift having a value in excess of \$25, but not in excess of \$100, other than a gift which the donor knows will be accepted on behalf of a governmental entity or charitable organization, must file a report on the last day of each calendar quarter, for the previous calendar quarter in which a reportable gift is made. The report shall be filed with the Commission on Ethics Secretary of State, except with respect to gifts to reporting individuals of the legislative branch, in which case the report shall be filed with the Division of Legislative Information Services in the Office of Legislative Services. The report must contain a description of each gift, the monetary value thereof, the name and address of the person making such gift, the name and address of the recipient of the gift, and the date such gift is given. In addition, when a gift is made which requires the filing of a report under this subsection, the donor must notify the intended recipient at the time the gift is made that the donor, or another on his or her behalf, will report the gift under this subsection. Under this paragraph, a gift need not be reported by more than one person or entity.

(6)

(d) No later than July 1 of each year, each reporting individual or procurement employee shall file a statement listing each gift having a value in excess of \$100 received by the reporting individual or procurement employee, either directly or indirectly, from a governmental entity or a direct-support organization specifically authorized by law to support a governmental entity. The statement shall list the name of the person providing the gift, a description of the gift, the date or dates on which the gift was given, and the value of the total gifts given during the calendar year for which the report is made. The reporting individual or procurement employee shall attach to such statement any report received by him or her in accordance with paragraph (c), which report shall become a public record when filed with the statement of the reporting individual or procurement employee. The reporting individual or procurement employee may explain any differences between the report of the reporting individual or procurement employee and the attached reports. The annual report filed by a reporting individual shall be filed with the financial disclosure statement required by either s. 8, Art. II of the State Constitution or s. 112.3145, as applicable to the reporting individual. The annual report filed by a procurement employee shall be filed with the Commission on Ethics Department of State.

(8)(a) Each reporting individual or procurement employee shall file a statement with the Commission on Ethics Secretary of State on the last day of each calendar quarter, for the previous calendar quarter, containing a list of gifts which he or she believes to be in excess of \$100 in value, if any, accepted by him or her, except the following:

1. Gifts from relatives.
2. Gifts prohibited by subsection (4) or s. 112.313(4).
3. Gifts otherwise required to be disclosed by this section.

Section 33. Effective July 1, 2001, subsection (6) of section 112.3149, Florida Statutes, is amended to read:

112.3149 Solicitation and disclosure of honoraria.—

(6) A reporting individual or procurement employee who receives payment or provision of expenses related to any honorarium event from a person who is prohibited by subsection (4) from paying an honorarium to a reporting individual or procurement employee shall publicly disclose on an annual statement the name, address, and affiliation of the person paying or providing the expenses; the amount of the honorarium expenses; the date of the honorarium event; a description of the expenses paid or provided on each day of the honorarium event; and the total value of the expenses provided to the reporting individual or procurement employee in connection with the honorarium event. The annual statement of honorarium expenses shall be filed by July 1 of each year for such expenses received during the previous calendar year. The reporting individual or procurement employee shall attach to the annual statement a copy of each statement received by him or her in accordance with subsection (5) regarding honorarium expenses paid or provided during the calendar year for which the annual statement is filed. Such attached statement shall become a public record upon the filing of the annual report. The annual statement of a reporting individual shall be filed with the financial disclosure statement required by either s. 8, Art. II of the State Constitution or s. 112.3145, as applicable to the reporting individual. The annual statement of a procurement employee shall be filed with the Commission on Ethics ~~Department of State~~.

Section 34. Section 257.36, Florida Statutes, is amended to read:

257.36 Records and information management.—

(1) There is created within the Division of Library and Information Services of the Department of State a records and information management program. It is the duty and responsibility of the division to:

(a) Establish and administer a records management program directed to the application of efficient and economical management methods relating to the creation, utilization, maintenance, retention, preservation, and disposal of records.

(b) Establish and operate a records center or centers primarily for the storage, processing, servicing, and security of public records that must be retained for varying periods of time but need not be retained in an agency's office equipment or space.

(c) Analyze, develop, establish, and coordinate standards, procedures, and techniques of recordmaking and recordkeeping.

(d) Ensure the maintenance and security of records which are deemed appropriate for preservation.

(e) Establish safeguards against unauthorized or unlawful removal or loss of records.

(f) Initiate appropriate action to recover records removed unlawfully or without authorization.

(g) Institute and maintain a training and information program in:

1. All phases of records and information management to bring approved and current practices, methods, procedures, and devices for the efficient and economical management of records to the attention of all agencies.

2. The requirements relating to access to public records under chapter 119.

(h) Provide a centralized program of microfilming for the benefit of all agencies.

(i) Make continuous surveys of recordkeeping operations.

(j) Recommend improvements in current records management practices, including the use of space, equipment, supplies, and personnel in creating, maintaining, and servicing records.

(k) Establish and maintain a program in cooperation with each agency for the selection and preservation of records considered essential to the operation of government and to the protection of the rights and privileges of citizens.

(l) Make, or have made, preservation duplicates, or designate existing copies as preservation duplicates, to be preserved in the place and manner of safekeeping as prescribed by the division.

(2)(a) All records transferred to the division may be held by it in a records center or centers, to be designated by it, for such time as in its judgment retention therein is deemed necessary. At such time as it is established by the division, such records as are determined by it as having historical or other value warranting continued preservation shall be transferred to the Florida State Archives.

(b) Title to any record detained in any records center shall remain in the agency transferring such record to the division.

(c) When a record held in a records center is eligible for destruction, the division shall notify, in writing, by certified mail, the agency which transferred the record. The agency shall have 90 days from receipt of that notice to respond requesting continued retention or authorizing destruction or disposal of the record. If the agency does not respond within that time, title to the record shall pass to the division.

(3) The division may charge fees for supplies and services, including, but not limited to, shipping containers, pickup, delivery, reference, and storage.

Fees shall be based upon the actual cost of the supplies and services and shall be deposited in the Records Management Trust Fund.

(4) Any preservation duplicate of any record made pursuant to this chapter shall have the same force and effect for all purposes as the original record. A transcript, exemplification, or certified copy of such preservation duplicate shall be deemed, for all purposes, to be a transcript, exemplification, or certified copy of the original record.

(5) For the purposes of this section, the term "agency" shall mean any state, county, district, or municipal officer, department, division, bureau, board, commission, or other separate unit of government created or established by law. It is the duty of each agency to:

(a) Cooperate with the division in complying with the provisions of this chapter and designate a records management liaison officer.

(b) Establish and maintain an active and continuing program for the economical and efficient management of records.

~~(6) Each agency shall submit to the division in accordance with the rules of the division a list or schedule of records in its custody that are not needed in the transaction of current business and that do not have sufficient administrative, legal, or fiscal significance to warrant further retention by the agency. Such records shall, in the discretion of the division, be transferred to it for further retention and preservation, as herein provided, or may be destroyed upon its approval.~~

~~(6)(7) A public record may be destroyed or otherwise disposed of only in accordance with retention schedules established by the division. No record shall be destroyed or disposed of by any agency unless approval of the division is first obtained.~~ The division shall adopt reasonable rules not inconsistent with this chapter which shall be binding on all agencies relating to the destruction and disposition disposal of records. Such rules shall provide, but not be limited to:

(a) ~~Procedures for complying and submitting to the division records-retention lists and schedules of records proposed for disposal.~~

(b) Procedures for the physical destruction or other disposal of records.

(c) Standards for the reproduction of records for security or with a view to the disposal of the original record.

Section 35. Paragraph (d) of subsection (1) of section 267.072, Florida Statutes, is amended to read:

267.072 Museum of Florida history programs.—

(1) The division shall:

(d) Establish and administer a program, to be entitled the Great Floridians program, which shall be designed to recognize and record the achieve-

ments of Floridians, living and deceased, who have made major contributions to the progress and welfare of this state.

1. The division shall nominate present or former citizens of this state, living or deceased, who during their lives have made major contributions to the progress of the nation or this state and its citizens. Nominations shall be submitted to the Secretary of State who shall select from those nominated not less than two persons each year who shall be honored with the designation "Great Floridian," provided no person whose contributions have been through elected or appointed public service shall be selected while holding any such office.

2. To enhance public participation and involvement in the identification of any person worthy of being nominated as a Great Floridian, the division shall seek advice and assistance from persons qualified through the demonstration of special interest, experience, or education in the dissemination of knowledge about the state's history.

a. In formulating its nominations, the division shall also seek the assistance of the Museum of Florida History Foundation, Inc., Florida History Associates, Inc., or its successor, acting in the capacity as a citizen support organization of the division, pursuant to s. 267.17 and approved to act on behalf of the Museum of Florida History.

b. Annually, the division shall convene an ad hoc committee composed of representatives of the Governor, each member of the Florida Cabinet, the President of the Senate, the Speaker of the House of Representatives, and the Museum of Florida History Foundation, Inc. Florida History Associates, Inc. This committee shall meet at least twice. The committee shall nominate ~~living citizens of this state who during their lives have made major contributions to the progress of the nation or this state and its citizens and shall from those nominated select each year not fewer~~ less than two persons whose names shall be submitted to the Secretary of State with the recommendation that they be honored with the designation "Great Floridian."

3. Upon designation of a person as a Great Floridian by the Secretary of State, the division shall undertake appropriate activities intended to achieve wide public knowledge of the person designated.

a. The division may seek to initiate production of a film or videotape depicting the life and contributions of the designee to this state and to the nation. If technology surpasses the use of film or videotape, another medium of equal quality may be used.

(I) In the production of such films, the division shall seek cooperation from local volunteers throughout the state and, in particular, shall seek fundraising and other assistance of the citizen support organization created pursuant to s. 267.17 to support the programs of the Museum of Florida History.

~~(II) In the case of persons nominated as Great Floridians as a result of the committee convened pursuant to sub-subparagraph 2.b., the division~~

~~shall immediately begin taking the steps necessary to produce a film depicting the contributions of such persons to this state and to the nation; however, the requirement to produce such a film shall be contingent upon appropriation of sufficient funds by the Legislature.~~

~~(II)(III)~~ The Museum of Florida History shall be the repository of the original negative, the original master tape, and all cuttings, of any film or videotape produced under the authority of this paragraph. The division also may exercise the right of trademark over the terms "Great Floridian" or "Great Floridians" pursuant to s. 286.031.

~~(III)(IV)~~ The division shall arrange for the distribution of copies of all films to the general public, public television stations, educational institutions, and others and may establish a reasonable charge to recover costs associated with production and to provide a source of revenue to assist with reproduction, marketing, and distribution of Great Floridians films. Proceeds from such charges shall be deposited into the Historical Resources Operating Trust Fund.

b. Deceased persons designated as Great Floridians typically shall be recognized by markers affixed to properties significantly associated with the major contributions of the designee. Such markers shall be erected pursuant to the provisions of s. 267.061(3)(n).

Section 36. Section 288.8175, Florida Statutes, is amended to read:

288.8175 Linkage institutes between postsecondary institutions in this state and foreign countries.—

(1) As used in this section, the term "department" means the Department of State.

(2)(4) There are created, ~~within the Department of Education~~, Florida linkage institutes. A primary purpose of these institutes is to assist in the development of stronger economic, cultural, educational, and social ties between this state and strategic foreign countries through the promotion of expanded public and private dialogue on cooperative research and technical assistance activities, increased bilateral commerce, student and faculty exchange, cultural exchange, and the enhancement of language training skills between the postsecondary institutions in this state and those of selected foreign countries. Each institute must ensure that minority students are afforded an equal opportunity to participate in the exchange programs.

(3)(2) Each institute must be governed by an agreement, approved by the ~~department of Education~~, between the State University System and the Florida Community College System with the counterpart organization of ~~higher education~~ in a the foreign country. Each institute must report to the department regarding its program activities, expenditures, and policies.

(4)(3) Each institute must be co-administered in this state by a university-community college partnership, as designated in subsection (5) (4), and must have a private sector and public sector advisory committee. The advisory committee must be representative of the international education and

commercial interests of the state and may have members who are native to the foreign country partner. Six members must be appointed by the department of Education. The department must appoint at least one member who is an international educator. The presidents, or their designees, of the participating university and community college must also serve on the advisory committee.

(5)(4) The institutes are:

(a) Florida-Brazil Institute (University of Florida and Miami-Dade Community College).

(b) Florida-Costa Rica Institute (Florida State University and Valencia Community College).

(c) Florida Caribbean Institute (Florida International University and Daytona Beach Community College).

(d) Florida-Canada Institute (University of Central Florida and Palm Beach Junior College).

(e) Florida-China Institute (University of West Florida, University of South Florida, and Brevard Community College).

(f) Florida-Japan Institute (University of South Florida, University of West Florida, and St. Petersburg Community College).

(g) Florida-France Institute (New College of the University of South Florida, Miami-Dade Community College, and Florida State University).

(h) Florida-Israel Institute (Florida Atlantic University and Broward Community College).

(i) Florida-West Africa Institute (Florida Agricultural and Mechanical University, University of North Florida, and Florida Community College at Jacksonville).

(j) Florida-Eastern Europe Institute (University of Central Florida and Lake Sumter Community College).

(k) Florida-Mexico Institute (Florida International University and Polk Community College).

(6)(5) Each institute is allowed to exempt from s. 240.1201 up to 25 full-time equivalent students per year from the respective host countries to study in any of the state universities or community colleges in this state as resident students for tuition purposes. The institute directors shall develop criteria, to be approved by the Department of Education, for the selection of these students. Students must return home within 3 years after their tenure of graduate or undergraduate study for a length of time equal to their exemption period.

(7)(6) Each state university and community college linkage institute partner may enter into an agreement for a student exchange program, that

requires that the tuition and fees of a student who is enrolled in a state university or community college and who is participating in an exchange program be paid to the university or community college while the student is participating in the exchange program. The agreement may also require that the tuition and fees of a student who is enrolled in a postsecondary institution in a foreign country and who is participating in an exchange program be paid to the foreign institution of enrollment.

~~(8)~~<sup>(7)</sup> No later than 60 days before every regular session of the Legislature, the department of ~~Education~~ shall present to the Speaker of the House of Representatives, the President of the Senate, and the minority leaders of the House of Representatives and the Senate a review of linkage institute program activity, criteria for their operation, accountability standards, recommended funding levels, and recommendations for establishing, maintaining, or abolishing linkage institutes. The criteria shall be developed in consultation with Enterprise Florida, Inc. The criteria must include, but need not be limited to, the purpose stated in subsection ~~(2)~~ <sup>(1)</sup> and:

(a) The importance of economic, political, and social ties between this state and the country or region.

(b) The potential for growth and expansion of commercial, educational, and cultural links.

(c) The viability of regionally oriented, rather than country-specific, linkages, based on historical or emerging regional economic or political trading blocs.

~~(9)~~<sup>(8)</sup> A linkage institute may not be created or funded except upon the recommendation of the department of ~~Education~~ and except by amendment to this section.

~~(10)~~<sup>(9)</sup> The department of ~~Education~~ shall review and make linkage-institute budget requests to the Governor and the Legislature. State appropriations for institutes created under this section must be made by a single lump-sum line item to the department, which must apportion the funds among the various institutes in accordance with criteria established by the department.

~~(11)~~<sup>(10)</sup> Linkage institutes may also accept and administer moneys provided by the department of ~~State~~ for research and development of international trade. The ~~department~~ Secretary of State shall, by March 1, report to the Governor, the President of the Senate, and the Speaker of the House of Representatives in each year in which the department of ~~State~~ has provided moneys for a linkage institute. The report must detail the purpose of the expenditure by the department of ~~State~~ and the use of the moneys by the linkage institutes and must include a copy of the research documents or related materials produced, if any.

Section 37. Effective January 7, 2003, subsection (1) of section 403.7145, Florida Statutes, is amended to read:

403.7145 Recycling.—

(1) The Capitol and the House and Senate office buildings constitute the Capitol recycling area. The Florida House of Representatives, the Florida Senate, and the Office of the Governor, the Secretary of State, and each Cabinet officer who heads a department that occupies office space in the Capitol, shall institute a recycling program for their respective offices in the House and Senate office buildings and the Capitol. Provisions shall be made to collect and sell wastepaper and empty aluminum beverage cans generated by employee activities in these offices. The collection and sale of such materials shall be coordinated with Department of Management Services recycling activities to maximize the efficiency and economy of this program. The Governor, the Speaker of the House of Representatives, the President of the Senate, the Secretary of State, and the Cabinet officers may authorize the use of proceeds from recyclable material sales for employee benefits and other purposes, in order to provide incentives to their respective employees for participation in the recycling program. Such proceeds may also be used to offset any costs of the recycling program.

Section 38. Subsection (8) of section 415.1065, Florida Statutes, is amended to read:

415.1065 Records management.—All records must be maintained in their entirety for their full retention period, except as otherwise provided in this section:

(8) MANNER OF STORAGE AND DISPOSAL.—All reports, regardless of classification, shall be stored and disposed of in a manner deemed appropriate to the department and in accordance with ss. 119.041 and 257.36(6) 257.36(7).

Section 39. Subsections (2) and (3) of section 526.311, Florida Statutes, are amended to read:

526.311 Enforcement; civil penalties; injunctive relief.—

(2) The Department of Agriculture and Consumer Services shall investigate any complaints regarding violations of this act and may request in writing the production of documents and records as part of its investigation of a complaint. ~~Trade secrets, as defined in s. 812.081, and proprietary confidential business information contained in the documents or records received by the department pursuant to a written request or a Department of Legal Affairs subpoena are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. If the person upon whom such request was made fails to produce the documents or records within 30 days after the date of the request, the department, through the department's office of general counsel, may of Agriculture and Consumer Services may request that the Department of Legal Affairs issue and serve a subpoena subpoenas to compel the production of such documents and records. If any person shall refuse to comply with a subpoena issued under this section, the department of Legal Affairs may petition a court of competent jurisdiction to enforce the subpoena and assess such sanctions as the court may direct. Refiners shall afford the department of Agriculture and Consumer Services reasonable access to the refiners' posted terminal price. After completion of an investigation, the Department of Agriculture and~~

~~Consumer Services shall give the results of its investigation to the Department of Legal Affairs. The Department of Legal Affairs may then subpoena additional relevant records or testimony if it determines that the Department of Agriculture and Consumer Services' investigation shows a violation has likely occurred. Any records, documents, papers, maps, books, tapes, photographs, files, sound recordings, or other business material, regardless of form or characteristics, obtained by the a department of Legal Affairs subpoena are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution while the investigation is pending. At the conclusion of an investigation, any matter determined by the department of Legal Affairs or by a judicial or administrative body, federal or state, to be a trade secret or proprietary confidential business information held by the department pursuant to such investigation shall be considered confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such materials may be used in any administrative or judicial proceeding so long as the confidential or proprietary nature of the material is maintained.~~

(3) ~~The civil penalty imposed under this section may be assessed and recovered in a civil action brought by the department of Legal Affairs in any court of competent jurisdiction. If the department of Legal Affairs prevails in a civil action, the court may award it reasonable attorneys' fees as it deems appropriate. All funds recovered by the department of Legal Affairs shall be deposited into shared ~~equally~~ between the Department of Legal Affairs Trust Fund and the General Inspection Trust Fund.~~

Section 40. Subsection (2) of section 526.312, Florida Statutes, is amended to read:

526.312 Enforcement; private actions; injunctive relief.—

(2) On the application for a temporary restraining order or a preliminary injunction, the court, in its discretion having due regard for the public interest, may require or dispense with the requirement of a bond, with or without surety, as conditions and circumstances may require. If a bond is required, the amount shall not be greater than \$50,000. Upon proper application by the plaintiff, the court shall grant preliminary injunctive relief if the plaintiff shows:

(a) That he or she is a proper person to seek the relief requested.

(b) There exist sufficiently serious questions going to the merits to make such questions a fair ground for litigation; and the court determines, on balance, the hardships imposed on the defendant and the public interest by the issuance of such preliminary injunctive relief will be less than the hardship which would be imposed on the plaintiff if such preliminary injunctive relief were not granted.

The standards specified in paragraphs (a) and (b) shall also apply to actions for injunctive relief brought by the department of ~~Legal Affairs~~ under s. 526.311.

Section 41. Section 526.313, Florida Statutes, is amended to read:

526.313 Limitations period for actions.—Any action brought by the department of ~~Legal Affairs~~ shall be brought within 2 years after the alleged violation occurred or should reasonably have been discovered. Any action brought by any other person shall be brought within 1 year after the alleged violation occurred or should reasonably have been discovered, except that a private action brought under s. 526.305 for unlawful price discrimination shall be brought within 2 years from the date the alleged violation occurred or should reasonably have been discovered.

Section 42. Section 526.3135, Florida Statutes, is amended to read:

526.3135 Reports by the ~~Division of Standards Department of Agriculture and Consumer Services.~~—The Division of Standards Department of Agriculture and Consumer Services is directed to compile a report pursuant to s. 570.544 of all complaints received by the Department of Agriculture and Consumer Services pursuant to this act. Such report shall contain at least the information required by s. 570.544(6)(b)2.-4. and shall be presented to the Speaker of the House of Representatives and the President of the Senate no later than January 1 of each year.

Section 43. There is hereby appropriated \$100,000 from the General Revenue Fund and two full-time equivalent positions to the Department of Agriculture and Consumer Services to implement the provisions of Chapter 526, Part I, Florida Statutes.

Section 44. Section 617.301, Florida Statutes, is transferred and renumbered as section 720.301, Florida Statutes, and amended to read:

720.301 ~~617.301~~ Homeowners' associations; definitions.—As used in ss. 720.301-720.312 ~~ss. 617.301-617.312~~, the term:

(1) "Assessment" or "amenity fee" means a sum or sums of money payable to the association, to the developer or other owner of common areas, or to recreational facilities and other properties serving the parcels by the owners of one or more parcels as authorized in the governing documents, which if not paid by the owner of a parcel, can result in a lien against the parcel.

(2) "Common area" means all real property within a community which is owned or leased by an association or dedicated for use or maintenance by the association or its members, including, regardless of whether title has been conveyed to the association:

(a) Real property the use of which is dedicated to the association or its members by a recorded plat; or

(b) Real property committed by a declaration of covenants to be leased or conveyed to the association.

(3) "Community" means the real property that is or will be subject to a declaration of covenants which is recorded in the county where the property is located. The term "community" includes all real property, including unde-

veloped phases, that is or was the subject of a development-of-regional-impact development order, together with any approved modification thereto.

(4) "Declaration of covenants," or "declaration," means a recorded written instrument in the nature of covenants running with the land which subjects the land comprising the community to the jurisdiction and control of an association or associations in which the owners of the parcels, or their association representatives, must be members.

(5) "Developer" means a person or entity that:

(a) Creates the community served by the association; or

(b) Succeeds to the rights and liabilities of the person or entity that created the community served by the association, provided that such is evidenced in writing.

(6) "Governing documents" means:

(a) The recorded declaration of covenants for a community, and all duly adopted and recorded amendments, supplements, and recorded exhibits thereto; and

(b) The articles of incorporation and bylaws of the homeowners' association, and any duly adopted amendments thereto.

(7) "Homeowners' association" or "association" means a Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel. The term "homeowners' association" does not include a community development district or other similar special taxing district created pursuant to statute.

(8) "Member" means a member of an association, and may include, but is not limited to, a parcel owner or an association representing parcel owners or a combination thereof.

(9) "Parcel" means a platted or unplatted lot, tract, unit, or other subdivision of real property within a community, as described in the declaration:

(a) Which is capable of separate conveyance; and

(b) Of which the parcel owner, or an association in which the parcel owner must be a member, is obligated:

1. By the governing documents to be a member of an association that serves the community; and

2. To pay to the homeowners' association assessments that, if not paid, may result in a lien.

(10) "Parcel owner" means the record owner of legal title to a parcel.

(11) "Voting interest" means the voting rights distributed to the members of the homeowners' association, pursuant to the governing documents.

Section 45. Section 617.302, Florida Statutes, is transferred and renumbered as section 720.302, Florida Statutes, and amended to read:

720.302 ~~617.302~~ Homeowners' associations; purposes, scope, and application.—

(1) The purposes of ss. 720.301-720.312 ~~ss. 617.301-617.312~~ are to give statutory recognition to corporations that operate residential communities in this state, to provide procedures for operating homeowners' associations, and to protect the rights of association members without unduly impairing the ability of such associations to perform their functions.

(2) The Legislature recognizes that it is not in the best interest of homeowners' associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners' associations. Further, the Legislature recognizes that certain contract rights have been created for the benefit of homeowners' associations and members thereof before the effective date of this act and that ss. 720.301-720.312 ~~ss. 617.301-617.312~~ are not intended to impair such contract rights, including, but not limited to, the rights of the developer to complete the community as initially contemplated.

(3) Sections 720.301-720.312 ~~617.301-617.312~~ do not apply to:

(a) A community that is composed ~~comprised~~ of property primarily intended for commercial, industrial, or other nonresidential use; or

(b) The commercial or industrial parcels in a community that contains both residential parcels and parcels intended for commercial or industrial use.

(4) Sections 720.301-720.312 ~~617.301-617.312~~ do not apply to any association that is subject to regulation under chapter 718, chapter 719, or chapter 721; or to any nonmandatory association formed under chapter 723.

Section 46. Section 617.303, Florida Statutes, is transferred and renumbered as section 720.303, Florida Statutes, and amended to read:

720.303 ~~617.303~~ Association powers and duties; meetings of board; official records; budgets; financial reporting.—

(1) POWERS AND DUTIES.—An association which operates a community as defined in s. 720.301 ~~s. 617.301~~, must be operated by an association that is a Florida corporation. After October 1, 1995, the association must be incorporated and the initial governing documents must be recorded in the official records of the county in which the community is located. An association may operate more than one community. The officers and directors of an association have a fiduciary relationship to the members who are served by the association. The powers and duties of an association include those set forth in this chapter and, except as expressly limited or restricted in this

chapter, those set forth in the governing documents. A member does not have authority to act for the association by virtue of being a member. An association may have more than one class of members and may issue membership certificates.

(2) **BOARD MEETINGS.**—A meeting of the board of directors of an association occurs whenever a quorum of the board gathers to conduct association business. All meetings of the board must be open to all members except for meetings between the board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notices of all board meetings must be posted in a conspicuous place in the community at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the community, notice of each board meeting must be mailed or delivered to each member at least 7 days before the meeting, except in an emergency. Notwithstanding this general notice requirement, for communities with more than 100 members, the bylaws may provide for a reasonable alternative to posting or mailing of notice for each board meeting, including publication of notice or provision of a schedule of board meetings. An assessment may not be levied at a board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments. Directors may not vote by proxy or by secret ballot at board meetings, except that secret ballots may be used in the election of officers. This subsection also applies to the meetings of any committee or other similar body, when a final decision will be made regarding the expenditure of association funds, and to any body vested with the power to approve or disapprove architectural decisions with respect to a specific parcel of residential property owned by a member of the community.

(3) **MINUTES.**—Minutes of all meetings of the members of an association and of the board of directors of an association must be maintained in written form or in another form that can be converted into written form within a reasonable time. A vote or abstention from voting on each matter voted upon for each director present at a board meeting must be recorded in the minutes.

(4) **OFFICIAL RECORDS.**—The association shall maintain each of the following items, when applicable, which constitute the official records of the association:

(a) Copies of any plans, specifications, permits, and warranties related to improvements constructed on the common areas or other property that the association is obligated to maintain, repair, or replace.

(b) A copy of the bylaws of the association and of each amendment to the bylaws.

(c) A copy of the articles of incorporation of the association and of each amendment thereto.

(d) A copy of the declaration of covenants and a copy of each amendment thereto.

- (e) A copy of the current rules of the homeowners' association.
- (f) The minutes of all meetings of the board of directors and of the members, which minutes must be retained for at least 7 years.
- (g) A current roster of all members and their mailing addresses and parcel identifications.
- (h) All of the association's insurance policies or a copy thereof, which policies must be retained for at least 7 years.
- (i) A current copy of all contracts to which the association is a party, including, without limitation, any management agreement, lease, or other contract under which the association has any obligation or responsibility. Bids received by the association for work to be performed must also be considered official records and must be kept for a period of 1 year.
- (j) The financial and accounting records of the association, kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least 7 years. The financial and accounting records must include:
1. Accurate, itemized, and detailed records of all receipts and expenditures.
  2. A current account and a periodic statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment on the account, and the balance due.
  3. All tax returns, financial statements, and financial reports of the association.
  4. Any other records that identify, measure, record, or communicate financial information.
- (5) INSPECTION AND COPYING OF RECORDS.—The official records shall be maintained within the state and must be open to inspection and available for photocopying by members or their authorized agents at reasonable times and places within 10 business days after receipt of a written request for access. This subsection may be complied with by having a copy of the official records available for inspection or copying in the community.
- (a) The failure of an association to provide access to the records within 10 business days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with this subsection.
- (b) A member who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply with this subsection. The minimum damages are to be \$50 per calendar day up to 10 days, the calculation to begin on the 11th business day after receipt of the written request.

(c) The association may adopt reasonable written rules governing the frequency, time, location, notice, and manner of inspections, and may impose fees to cover the costs of providing copies of the official records, including, without limitation, the costs of copying. The association shall maintain an adequate number of copies of the recorded governing documents, to ensure their availability to members and prospective members, and may charge only its actual costs for reproducing and furnishing these documents to those persons who are entitled to receive them.

(6) BUDGETS.—The association shall prepare an annual budget. The budget must reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges for recreational amenities, whether owned by the association, the developer, or another person. The association shall provide each member with a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the member. The copy must be provided to the member within the time limits set forth in subsection (5).

(7) FINANCIAL REPORTING.—The association shall prepare an annual financial report within 60 days after the close of the fiscal year. The association shall, within the time limits set forth in subsection (5), provide each member with a copy of the annual financial report or a written notice that a copy of the financial report is available upon request at no charge to the member. The financial report must consist of either:

(a) Financial statements presented in conformity with generally accepted accounting principles; or

(b) A financial report of actual receipts and expenditures, cash basis, which report must show:

1. The amount of receipts and expenditures by classification; and
2. The beginning and ending cash balances of the association.

(8) ASSOCIATION FUNDS; COMMINGLING.—

(a) All association funds held by a developer shall be maintained separately in the association's name. Reserve and operating funds of the association shall not be commingled prior to turnover except the association may jointly invest reserve funds; however, such jointly invested funds must be accounted for separately.

(b) No developer in control of a homeowners' association shall commingle any association funds with his or her funds or with the funds of any other homeowners' association or community association.

(9) APPLICABILITY.—Sections 617.1601-617.1604 do not apply to a homeowners' association in which the members have the inspection and copying rights set forth in this section.

Section 47. Section 617.306, Florida Statutes, is transferred and renumbered as section 720.306, Florida Statutes, and amended to read:

720.306 ~~617.306~~ Associations; meetings of members; voting and election procedures; amendments.—

(1) QUORUM; AMENDMENTS.—

(a) Unless a lower number is provided in the bylaws, the percentage of voting interests required to constitute a quorum at a meeting of the members shall be 30 percent of the total voting interests. Unless otherwise provided in this chapter or in the articles of incorporation or bylaws, decisions that require a vote of the members must be made by the concurrence of at least a majority of the voting interests present, in person or by proxy, at a meeting at which a quorum has been attained.

(b) Unless otherwise provided in the governing documents or required by law, and other than those matters set forth in paragraph (c), any governing document of an association may be amended by the affirmative vote of two-thirds of the voting interests of the association.

(c) Unless otherwise provided in the governing documents as originally recorded, an amendment may not affect vested rights unless the record owner of the affected parcel and all record owners of liens on the affected parcels join in the execution of the amendment.

(2) ANNUAL MEETING.—The association shall hold a meeting of its members annually for the transaction of any and all proper business at a time, date, and place stated in, or fixed in accordance with, the bylaws. The election of directors, if one is required to be held, must be held at, or in conjunction with, the annual meeting or as provided in the governing documents.

(3) SPECIAL MEETINGS.—Special meetings must be held when called by the board of directors or, unless a different percentage is stated in the governing documents, by at least 10 percent of the total voting interests of the association. Business conducted at a special meeting is limited to the purposes described in the notice of the meeting.

(4) CONTENT OF NOTICE.—Unless law or the governing documents require otherwise, notice of an annual meeting need not include a description of the purpose or purposes for which the meeting is called. Notice of a special meeting must include a description of the purpose or purposes for which the meeting is called.

(5) ADJOURNMENT.—Unless the bylaws require otherwise, adjournment of an annual or special meeting to a different date, time, or place must be announced at that meeting before an adjournment is taken, or notice must be given of the new date, time, or place pursuant to s. 720.303(2) ~~s. 617.303(2)~~. Any business that might have been transacted on the original date of the meeting may be transacted at the adjourned meeting. If a new record date for the adjourned meeting is or must be fixed under s. 617.0707, notice of the adjourned meeting must be given to persons who are entitled to vote and are members as of the new record date but were not members as of the previous record date.

(6) **PROXY VOTING.**—The members have the right, unless otherwise provided in this subsection or in the governing documents, to vote in person or by proxy. To be valid, a proxy must be dated, must state the date, time, and place of the meeting for which it was given, and must be signed by the authorized person who executed the proxy. A proxy is effective only for the specific meeting for which it was originally given, as the meeting may lawfully be adjourned and reconvened from time to time, and automatically expires 90 days after the date of the meeting for which it was originally given. A proxy is revocable at any time at the pleasure of the person who executes it. If the proxy form expressly so provides, any proxy holder may appoint, in writing, a substitute to act in his or her place.

(7) **ELECTIONS.**—Elections of directors must be conducted in accordance with the procedures set forth in the governing documents of the association. All members of the association shall be eligible to serve on the board of directors, and a member may nominate himself or herself as a candidate for the board at a meeting where the election is to be held. Except as otherwise provided in the governing documents, boards of directors must be elected by a plurality of the votes cast by eligible voters.

(8) **RECORDING.**—Any parcel owner may tape record or videotape meetings of the board of directors and meetings of the members. The board of directors of the association may adopt reasonable rules governing the taping of meetings of the board and the membership.

Section 48. Section 617.307, Florida Statutes, is transferred and renumbered as section 720.307, Florida Statutes, and amended to read:

720.307 ~~617.307~~ Transition of homeowners' association control in a community.—With respect to homeowners' associations as defined in s. ~~617.301~~:

(1) Members other than the developer are entitled to elect at least a majority of the members of the board of directors of the homeowners' association when the earlier of the following events occurs:

(a) Three months after 90 percent of the parcels in all phases of the community that will ultimately be operated by the homeowners' association have been conveyed to members; or

(b) Such other percentage of the parcels has been conveyed to members, or such other date or event has occurred, as is set forth in the governing documents in order to comply with the requirements of any governmentally chartered entity with regard to the mortgage financing of parcels.

For purposes of this section, the term “members other than the developer” shall not include builders, contractors, or others who purchase a parcel for the purpose of constructing improvements thereon for resale.

(2) The developer is entitled to elect at least one member of the board of directors of the homeowners' association as long as the developer holds for sale in the ordinary course of business at least 5 percent of the parcels in all phases of the community. After the developer relinquishes control of the homeowners' association, the developer may exercise the right to vote any

developer-owned voting interests in the same manner as any other member, except for purposes of reacquiring control of the homeowners' association or selecting the majority of the members of the board of directors.

(3) At the time the members are entitled to elect at least a majority of the board of directors of the homeowners' association, the developer shall, at the developer's expense, within no more than 90 days deliver the following documents to the board:

- (a) All deeds to common property owned by the association.
- (b) The original of the association's declarations of covenants and restrictions.
- (c) A certified copy of the articles of incorporation of the association.
- (d) A copy of the bylaws.
- (e) The minute books, including all minutes.
- (f) The books and records of the association.
- (g) Policies, rules, and regulations, if any, which have been adopted.
- (h) Resignations of directors who are required to resign because the developer is required to relinquish control of the association.
- (i) The financial records of the association from the date of incorporation through the date of turnover.
- (j) All association funds and control thereof.
- (k) All tangible property of the association.
- (l) A copy of all contracts which may be in force with the association as one of the parties.
- (m) A list of the names and addresses and telephone numbers of all contractors, subcontractors, or others in the current employ of the association.
- (n) Any and all insurance policies in effect.
- (o) Any permits issued to the association by governmental entities.
- (p) Any and all warranties in effect.
- (q) A roster of current homeowners and their addresses and telephone numbers and section and lot numbers.
- (r) Employment and service contracts in effect.
- (s) All other contracts in effect to which the association is a party.

(4) This section does not apply to a homeowners' association in existence on the effective date of this act, or to a homeowners' association, no matter

when created, if such association is created in a community that is included in an effective development-of-regional-impact development order as of the effective date of this act, together with any approved modifications thereof.

Section 49. Section 617.3075, Florida Statutes, is transferred and renumbered as section 720.3075, Florida Statutes, and amended to read:

720.3075 ~~617.3075~~ Prohibited clauses in homeowners' association documents.—

(1) It is ~~hereby~~ declared that the public policy of this state prohibits the inclusion or enforcement of certain types of clauses in homeowners' association documents, including declaration of covenants, articles of incorporation, bylaws, or any other document of the association which binds members of the association, which either have the effect of or provide that:

(a) A developer has the unilateral ability and right to make changes to the homeowners' association documents after the transition of homeowners' association control in a community from the developer to the nondeveloper members, as set forth in s. 720.307 ~~s. 617.307~~, has occurred.

(b) A homeowners' association is prohibited or restricted from filing a lawsuit against the developer, or the homeowners' association is otherwise effectively prohibited or restricted from bringing a lawsuit against the developer.

(c) After the transition of homeowners' association control in a community from the developer to the nondeveloper members, as set forth in s. 720.307 ~~s. 617.307~~, has occurred, a developer is entitled to cast votes in an amount that exceeds one vote per residential lot.

Such clauses are ~~hereby~~ declared null and void as against the public policy of this state.

(2) The public policy described in subsection (1) prohibits the inclusion or enforcement of such clauses created on or after the effective date of section 3 of chapter 98-261, Laws of Florida ~~this section~~.

Section 50. Section 617.311, Florida Statutes, is transferred and renumbered as section 720.311, Florida Statutes, and amended to read:

720.311 ~~617.311~~ Dispute resolution.—The Legislature finds that alternative dispute resolution has made progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to litigation. At any time after the filing in a court of competent jurisdiction of a complaint relating to a dispute under ss. 720.301-720.312 ~~ss. 617.301-617.312~~, the court may order that the parties enter mediation or arbitration procedures.

Section 51. Sections 617.304, 617.305, 617.308, 617.309, 617.31, and 617.312, Florida Statutes, are transferred and renumbered as sections 720.304, 720.305, 720.308, 720.309, 720.31, and 720.312, Florida Statutes, respectively.

Section 52. Subsection (6) of section 617.0601, Florida Statutes, is amended to read:

617.0601 Members, generally.—

(6) Subsections (1), (2), (3), and (4) do not apply to a corporation that is an association as defined in s. 720.301 ~~s. 617.301~~.

Section 53. Subsection (6) of section 617.0701, Florida Statutes, is amended to read:

617.0701 Meetings of members, generally; failure to hold annual meeting; special meeting; consent to corporate actions without meetings; waiver of notice of meetings.—

(6) Subsections (1) and (3) do not apply to any corporation that is an association as defined in s. 720.301 ~~s. 617.301~~.

Section 54. Subsection (6) of section 617.0721, Florida Statutes, is amended to read:

617.0721 Voting by members.—

(6) Subsections (1), (2), (4), and (5) do not apply to a corporation that is an association as defined in s. 720.301 ~~s. 617.301~~.

Section 55. Section 617.0831, Florida Statutes, is amended to read:

617.0831 Indemnification and liability of officers, directors, employees, and agents.—Except as provided in s. 617.0834, ss. 607.0831 and 607.0850 apply to a corporation organized under this act and a rural electric cooperative organized under chapter 425. Any reference to “directors” in those sections includes the directors, managers, or trustees of a corporation organized under this act or of a rural electric cooperative organized under chapter 425. However, the term “director” as used in ss. 607.0831 and 607.0850 does not include a director appointed by the developer to the board of directors of a condominium association under chapter 718, a cooperative association under chapter 719, a homeowners’ association defined in s. 720.301 ~~s. 617.301~~, or a timeshare managing entity under chapter 721. Any reference to “shareholders” in those sections includes members of a corporation organized under this act and members of a rural electric cooperative organized under chapter 425.

Section 56. Subsection (4) of section 712.01, Florida Statutes, is amended to read:

712.01 Definitions.—As used in this law:

(4) The term “homeowners’ association” means a homeowners’ association as defined in s. 720.301 ~~s. 617.301(7)~~, or an association of parcel owners which is authorized to enforce use restrictions that are imposed on the parcels.

Section 57. Subsection (1) of section 723.0751, Florida Statutes, is amended to read:

723.0751 Mobile home subdivision homeowners' association.—

(1) In the event that no homeowners' association has been created pursuant to ~~ss. 720.301-720.312 ss. 617.301-617.312~~ to operate a mobile home subdivision, the owners of lots in such mobile home subdivision shall be authorized to create a mobile home subdivision homeowners' association in the manner prescribed in ss. 723.075, 723.076, and 723.078 which shall have the powers and duties, to the extent applicable, set forth in ss. 723.002(2) and 723.074.

Section 58. Subsection (5) of section 849.085, Florida Statutes, is amended to read:

849.085 Certain penny-ante games not crimes; restrictions.—

(5) The conduct of any penny-ante game within the common elements or common area of a condominium, cooperative, residential subdivision, or mobile home park or the conduct of any penny-ante game within the dwelling of an eligible organization as defined in subsection (2) or within a publicly owned community center owned by a municipality or county creates no civil liability for damages arising from the penny-ante game on the part of a condominium association, cooperative association, a homeowners' association as defined in ~~s. 720.301 s. 617.301~~, mobile home owner's association, dwelling owner, or municipality or county or on the part of a unit owner who was not a participant in the game.

Section 59. Subsection (4) and paragraph (e) of subsection (11) of section 849.0931, Florida Statutes, are amended to read:

849.0931 Bingo authorized; conditions for conduct; permitted uses of proceeds; limitations.—

(4) The right of a condominium association, a cooperative association, a homeowners' association as defined in ~~s. 702.301 s. 617.301~~, a mobile home owners' association, a group of residents of a mobile home park as defined in chapter 723, or a group of residents of a mobile home park or recreational vehicle park as defined in chapter 513 to conduct bingo is conditioned upon the return of the net proceeds from such games to players in the form of prizes after having deducted the actual business expenses for such games for articles designed for and essential to the operation, conduct, and playing of bingo. Any net proceeds remaining after paying prizes may be donated by the association to a charitable, nonprofit, or veterans' organization which is exempt from federal income tax under the provisions of s. 501(c) of the Internal Revenue Code to be used in such recipient organization's charitable, civic, community, benevolent, religious, or scholastic works or similar activities or, in the alternative, such remaining proceeds shall be used as specified in subsection (3).

(11) Bingo games may be held only on the following premises:

(e) With respect to bingo games conducted by a condominium association, a cooperative association, a homeowners' association as defined in ~~s. 720.301 s. 617.301~~, a mobile home owners' association, a group of residents of a

mobile home park as defined in chapter 723, or a group of residents of a mobile home park or recreational vehicle park as defined in chapter 513, property owned by the association, property owned by the residents of the mobile home park or recreational vehicle park, or property which is a common area located within the condominium, mobile home park, or recreational vehicle park.

Section 60. Section 849.094, Florida Statutes, is amended to read:

849.094 Game promotion in connection with sale of consumer products or services.—

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

(a) “Game promotion” means, but is not limited to, a contest, game of chance, or gift enterprise, conducted within or throughout the state and other states in connection with the sale of consumer products or services, and in which the elements of chance and prize are present. However, “game promotion” shall not be construed to apply to bingo games conducted pursuant to s. 849.0931.

(b) “Operator” means any person, firm, corporation, or association or agent or employee thereof who promotes, operates, or conducts a game promotion, except any charitable nonprofit organization.

(2) It is unlawful for any operator:

(a) To design, engage in, promote, or conduct such a game promotion, in connection with the promotion or sale of consumer products or services, wherein the winner may be predetermined or the game may be manipulated or rigged so as to:

1. Allocate a winning game or any portion thereof to certain lessees, agents, or franchises; or

2. Allocate a winning game or part thereof to a particular period of the game promotion or to a particular geographic area;

(b) Arbitrarily to remove, disqualify, disallow, or reject any entry;

(c) To fail to award prizes offered;

(d) To print, publish, or circulate literature or advertising material used in connection with such game promotions which is false, deceptive, or misleading; or

(e) To require an entry fee, payment, or proof of purchase as a condition of entering a game promotion.

(3) The operator of a game promotion in which the total announced value of the prizes offered is greater than \$5,000 shall file with the Department of Agriculture and Consumer Services ~~State~~ a copy of the rules and regulations of the game promotion and a list of all prizes and prize categories offered at least 7 days before the commencement of the game promotion.

Such rules and regulations may not thereafter be changed, modified, or altered. The operator of a game promotion shall conspicuously post the rules and regulations of such game promotion in each and every retail outlet or place where such game promotion may be played or participated in by the public and shall also publish the rules and regulations in all advertising copy used in connection therewith. Radio and television announcements may indicate that the rules and regulations are available at retail outlets or from the operator of the promotion. A nonrefundable filing fee of \$100 shall accompany each filing and shall be ~~deposited into the Division of Licensing Trust Fund~~ to be used to pay the costs incurred in administering and enforcing the provisions of this section.

(4)(a) Every operator of such a game promotion in which the total announced value of the prizes offered is greater than \$5,000 shall establish a trust account, in a national or state-chartered financial institution, with a balance sufficient to pay or purchase the total value of all prizes offered. On a form supplied by the Department of Agriculture and Consumer Services State, an official of the financial institution holding the trust account shall set forth the dollar amount of the trust account, the identity of the entity or individual establishing the trust account, and the name of the game promotion for which the trust account has been established. Such form shall be filed with the Department of Agriculture and Consumer Services State at least 7 days in advance of the commencement of the game promotion. In lieu of establishing such trust account, the operator may obtain a surety bond in an amount equivalent to the total value of all prizes offered; and such bond shall be filed with the Department of Agriculture and Consumer Services State at least 7 days in advance of the commencement of the game promotion.

1. The moneys held in the trust account may be withdrawn in order to pay the prizes offered only upon certification to the Department of Agriculture and Consumer Services State of the name of the winner or winners and the amount of the prize or prizes and the value thereof.

2. If the operator of a game promotion has obtained a surety bond in lieu of establishing a trust account, the amount of the surety bond shall equal at all times the total amount of the prizes offered.

(b) The Department of Agriculture and Consumer Services State may waive the provisions of this subsection for any operator who has conducted game promotions in the state for not less than 5 consecutive years and who has not had any civil, criminal, or administrative action instituted against him or her by the state or an agency of the state for violation of this section within that 5-year period. Such waiver may be revoked upon the commission of a violation of this section by such operator, as determined by the Department of Agriculture and Consumer Services State.

(5) Every operator of a game promotion in which the total announced value of the prizes offered is greater than \$5,000 shall provide the Department of Agriculture and Consumer Services State with a certified list of the names and addresses of all persons, whether from this state or from another state, who have won prizes which have a value of more than \$25, the value

of such prizes, and the dates when the prizes were won within 60 days after such winners have been finally determined. The operator shall provide a copy of the list of winners, without charge, to any person who requests it. In lieu of the foregoing, the operator of a game promotion may, at his or her option, publish the same information about the winners in a Florida newspaper of general circulation within 60 days after such winners have been determined and shall provide to the Department of Agriculture and Consumer Services State a certified copy of the publication containing the information about the winners. The operator of a game promotion is not required to notify a winner by mail or by telephone when the winner is already in possession of a game card from which the winner can determine that he or she has won a designated prize. All winning entries shall be held by the operator for a period of 90 days after the close or completion of the game.

(6) The Department of Agriculture and Consumer Services State shall keep the certified list of winners for a period of at least 6 months after receipt of the certified list. The department thereafter may dispose of all records and lists.

(7) No operator shall force, directly or indirectly, a lessee, agent, or franchise dealer to purchase or participate in any game promotion. For the purpose of this section, coercion or force shall be presumed in these circumstances in which a course of business extending over a period of 1 year or longer is materially changed coincident with a failure or refusal of a lessee, agent, or franchise dealer to participate in such game promotions. Such force or coercion shall further be presumed when an operator advertises generally that game promotions are available at its lessee dealers or agent dealers.

(8)(a) The Department of Agriculture and Consumer Services State shall have the power to promulgate such rules and regulations respecting the operation of game promotions as it may deem advisable.

(b) Whenever the Department of Agriculture and Consumer Services State or the Department of Legal Affairs has reason to believe that a game promotion is being operated in violation of this 2ection, it may bring an action in the circuit court of any judicial circuit in which the game promotion is being operated in the name and on behalf of the people of the state against any operator thereof to enjoin the continued operation of such game promotion anywhere within the state.

(9)(a) Any person, firm, or corporation, or association or agent or employee thereof, who engages in any acts or practices stated in this section to be unlawful, or who violates any of the rules and regulations made pursuant to this section, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person, firm, corporation, association, agent, or employee who violates any provision of this section or any of the rules and regulations made pursuant to this section shall be liable for a civil penalty of not more than \$1,000 for each such violation, which shall accrue to the state and may be recovered in a civil action brought by the Department of Agriculture and Consumer Services State or the Department of Legal Affairs.

(10) This section does not apply to actions or transactions regulated by the Department of Business and Professional Regulation or to the activities of nonprofit organizations or to any other organization engaged in any enterprise other than the sale of consumer products or services. Subsections (3), (4), (5), (6), and (7) and paragraph (8)(a) and any of the rules made pursuant thereto do not apply to television or radio broadcasting companies licensed by the Federal Communications Commission.

Section 61. Subsection (2) of section 790.06, Florida Statutes, is amended to read:

790.06 License to carry concealed weapon or firearm.—

(2) The Department of State shall issue a license if the applicant:

(a) Is a resident of the United States or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;

(b) Is 21 years of age or older;

(c) Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm;

(d) Is not ineligible to possess a firearm pursuant to s. 790.23 by virtue of having been convicted of a felony;

(e) Has not been committed for the abuse of a controlled substance or been found guilty of a crime under the provisions of chapter 893 or similar laws of any other state relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;

(f) Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if the applicant has been committed under chapter 397 or under the provisions of former chapter 396 or has been convicted under s. 790.151 or has been deemed a habitual offender under s. 856.011(3), or has had two or more convictions under s. 316.193 or similar laws of any other state, within the 3-year period immediately preceding the date on which the application is submitted;

(g) Desires a legal means to carry a concealed weapon or firearm for lawful self-defense;

(h) Demonstrates competence with a firearm by any one of the following:

1. Completion of any hunter education or hunter safety course approved by the Fish and Wildlife Conservation Commission or a similar agency of another state;

2. Completion of any National Rifle Association firearms safety or training course;
3. Completion of any firearms safety or training course or class available to the general public offered by a law enforcement, junior college, college, or private or public institution or organization or firearms training school, utilizing instructors certified by the National Rifle Association, Criminal Justice Standards and Training Commission, or the Department of State;
4. Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;
5. Presents evidence of equivalent experience with a firearm through participation in organized shooting competition or military service;
6. Is licensed or has been licensed to carry a firearm in this state or a county or municipality of this state, unless such license has been revoked for cause; or
7. Completion of any firearms training or safety course or class conducted by a state-certified or National Rifle Association certified firearms instructor;

A photocopy of a certificate of completion of any of the courses or classes; or an affidavit from the instructor, school, club, organization, or group that conducted or taught said course or class attesting to the completion of the course or class by the applicant; or a copy of any document which shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this paragraph; any person who conducts a course pursuant to subparagraph 2., subparagraph 3., or subparagraph 7., or who, as an instructor, attests to the completion of such courses, must maintain records certifying that he or she observed the student safely handle and discharge the firearm;

(i) Has not been adjudicated an incapacitated person under s. 744.331, or similar laws of any other state, unless 5 years have elapsed since the applicant's restoration to capacity by court order;

(j) Has not been committed to a mental institution under chapter 394, or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least 5 years prior to the date of submission of the application;

(k) Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been sealed or expunged; ~~and~~

(l) Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence; ~~and~~.

(m) Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.

Section 62. Present subsections (14) through (18) of section 266.0016, Florida Statutes, are renumbered as subsections (15) through (19), respectively, subsection (15) is amended, and a new subsection (14) is added to said section, to read:

266.0016 Powers of the board.—The department shall monitor the effectiveness of all programs of the board and oversee the board to ensure that it complies with state laws and rules. The board is the governing body and shall exercise those powers delegated to it by the department. These delegated powers shall include, but not be limited to, the power to:

(14) Enter into agreements to accept credit card payments as compensation, and establish accounts in credit card banks for the deposit of credit card sales invoices.

(15)(a)(14) Fix and collect charges for admission to any of the facilities operated and maintained by the board under the provisions of ss. 266.0011-266.0018, and

(b) Permit the acceptance of tour vouchers issued by tour organizations or travel agents for payment of admissions.

(c) Adopt and enforce reasonable rules to govern the conduct of the visiting public.

Any power delegated by the department pursuant to this section may be revoked by the department at any time if, in the department's determination, the board is not exercising a delegated power in accordance with department rules and policies or in the best interest of the state.

Section 63. (1) The Division of Historical Resources of the Department of State and the Historic Pensacola Preservation Board of Trustees, in conjunction with representatives from West Florida counties, municipalities, and postsecondary educational institutions, shall develop a regionally based plan for the protection, preservation, restoration, and promotion of sites, objects, and landmarks of historical significance to West Florida and to the state. The plan shall include, but not be limited to, the following:

(a) Identification of the needs, including financial needs, of the region for the protection, preservation, restoration, and promotion of historically significant sites, objects, and landmarks.

(b) Consideration and evaluation of and recommendations regarding the long-term management of those historic resources currently under the Historic Pensacola Preservation Board of Trustees.

(c) Consideration and evaluation of and recommendations regarding the establishment of a West Florida Museum of History to serve as the center for historic protection, preservation, restoration, and promotion in the region.

- (d) Recommendations for local and regional initiatives.
- (e) Recommendations for statutory changes and budget considerations.
- (2) The plan shall be submitted to the President of the Senate and the Speaker of the House of Representatives no later than January 1, 2001.

Section 64. The Secretary of State shall review the Florida Statutes, identify any provisions relating to the performance of constitutional or cabinet duties of the Secretary of State, and recommend changes to those sections of law to the President of the Senate and the Speaker of the House of Representatives by January 1, 2002.

Section 65. The John and Mable Ringling Museum of Art is transferred from the Board of Trustees of the John and Mable Ringling Museum of Art in the Department of State to the Florida State University.

Section 66. Section 240.711, Florida Statutes, is created to read:

240.711 Ringling Center for Cultural Arts.—

(1) The Florida State University Ringling Center for Cultural Arts is created. The center consists of the following properties located in Sarasota County:

(a) The John and Mable Ringling Museum of Art composed of:

1. The art museum;
2. The Ca' d'Zan (the Ringling residence); and
3. The Ringling Museum of the Circus.

(b) The Florida State University Center for the Fine and Performing Arts, including the Asolo Theater and the Florida State University Center for the Performing Arts, both of which shall provide for academic programs in theatre, dance, art, art history, and museum management.

The center shall be operated by the Florida State University, which shall be charged with encouraging participation by K-12 schools and by other colleges and universities, public and private, in the educational and cultural enrichment programs of the center.

(2)(a) The John and Mable Ringling Museum of Arts is designated as the official Art Museum of the State of Florida. The purpose and function of the museum is to maintain and preserve all objects of art and artifacts donated to the state through the will of John Ringling; to acquire and preserve objects of art or artifacts of historical or cultural significance; to exhibit such objects to the public; to undertake scholarly research and publication, including that relating to the collection; to provide educational programs for students at K-12 schools and those in college and graduate school and enrichment programs for children and adults; to assist other museums in the state and nation through education programs and through loaning objects from the collection when such loans do not threaten the safety and security

of the objects; to enhance knowledge and appreciation of the collection; and to engage in other activities related to visual arts which benefit the public. The museum shall also engage in programs on the national and international level to enhance further the cultural resources of the state.

(b) The Florida State University shall approve a John and Mable Ringling Museum of Art direct-support organization. Such direct-support organization shall consist of no more than 31 members appointed by the president of the university from a list of nominees provided by the Ringling direct-support organization. No fewer than one-third of the members must be residents of Sarasota and Manatee Counties, and the remaining members may reside elsewhere. The current members of the Board of Trustees of the John and Mable Ringling Museum of Art may be members of the direct-support organization. They shall develop a charter and by-laws to govern their operation, and these shall be subject to approval by the Florida State University.

(c) The John and Mable Ringling Museum of Art direct-support organization, operating under the charter and by-laws and such contracts as are approved by the university, shall set policies to maintain and preserve the collections of the Art Museum; the Circus Museum; the furnishings and objects in the Ringling home, referred as the Ca' d'Zan; and other objects of art and artifacts in the custody of the museum. Title to all such collections, art objects, and artifacts of the museums and its facilities shall remain with the Florida State University, which shall assign state registration numbers to, and conduct annual inventories of, all such properties. The direct-support organization shall develop policy for the museum, subject to the provisions of the John Ringling will and the overall direction of the president of the university; and it is invested with power and authority to nominate a museum director who is appointed by and serves at the pleasure of the president of the university and shall report to the provost of the university or his or her designee. The museum director, with the approval of the provost or his or her designee, shall appoint other employees in accordance with Florida Statutes and rules; remove the same in accordance with Florida Statutes and rules; provide for the proper keeping of accounts and records and budgeting of funds; enter into contracts for professional programs of the museum and for the support and maintenance of the museum; secure public liability insurance; and do and perform every other matter or thing requisite to the proper management, maintenance, support, and control of the museum at the highest efficiency economically possible, while taking into consideration the purposes of the museum.

(d) Notwithstanding the provision of s. 287.057, the John and Mable Ringling Museum of Art direct-support organization may enter into contracts or agreements with or without competitive bidding, in its discretion, for the restoration of objects of art in the museum collection or for the purchase of objects of art that are to be added to the collection.

(e) Notwithstanding s. 273.055, the university may sell any art object in the museum collection, which object has been acquired after 1936, if the director and the direct-support organization recommend such sale to the president of the university and if they first determine that the object is no

longer appropriate for the collection. The proceeds of the sale shall be deposited in the Ringling Museum Art Acquisition, Restoration, and Conservation Trust Fund. The university also may exchange any art object in the collection, which object has been acquired after 1936, for an art object or objects that the director and the museum direct-support organization recommend to the university after judging these to be of equivalent or greater value to the museum.

(f) An employee or member of the museum direct-support organization may not receive a commission, fee, or financial benefit in connection with the sale or exchange of a work of art and may not be a business associate of any individual, firm, or organization involved in the sale or exchange.

(g) The university, in consultation with the direct-support organization, shall establish policies and may adopt rules for the sale or exchange of works of art.

(h) The John and Mable Ringling Museum of Art direct-support organization shall cause an annual audit of its financial accounts to be conducted by an independent certified public accountant, performed in accordance with generally accepted accounting standards. Florida State University is authorized to require and receive from the direct-support organization, or from its independent auditor, any detail or supplemental data relative to the operation of such organization. Information that, if released, would identify donors who desire to remain anonymous, is confidential and exempt from the provisions of s. 119.07(1). Information that, if released, would identify prospective donors is confidential and exempt from the provisions of s. 119.07(1) when the direct-support organization has identified the prospective donor itself and has not obtained the name of the prospective donor by copying, purchasing, or borrowing names from another organization or source. Identities of such donors and prospective donors shall not be revealed in the auditor's report.

(i) The direct-support organization is given authority to make temporary loans of paintings and other objects of art or artifacts belonging to the John and Mable Ringling Museum of Art for the purpose of public exhibition in art museums, other museums, or institutions of higher learning wherever located, including such museums or institutions in other states or countries. Temporary loans may also be made to the executive mansion in Tallahassee, chapters and affiliates of the John and Mable Ringling Museum of Art, and, for education purposes, to schools, public libraries, or other institutions in the state, if such exhibition will benefit the general public as the university deems wise and for the best interest of the John and Mable Ringling Museum of Art and under policies established by Florida State University for the protection of the paintings and other objects of art and artifacts. In making temporary loans, the direct-support organization shall give first preference to art museums, other museums, and institutions of higher learning.

(j) Notwithstanding any other provision of law, the John and Mable Ringling Museum of Art direct-support organization is eligible to match state funds in the Major Gifts Trust Fund established pursuant to s. 240.2605 as follows:

1. For the first \$1,353,750, matching shall be on the basis of 75 cents in state matching for each dollar of private funds.

2. For additional funds, matching shall be provided on the same basis as is authorized in s. 240.2605.

Section 67. Sections 265.26 and 265.261, Florida Statutes, are repealed.

Section 68. Paragraph (e) of subsection (1) of section 265.2861, Florida Statutes, is amended to read:

265.2861 Cultural Institutions Program; trust fund.—

(1) CULTURAL INSTITUTIONS TRUST FUND.—There is created a Cultural Institutions Trust Fund to be administered by the Department of State for the purposes set forth in this section and to support the following programs as follows:

(e) For the officially designated Art Museum of the State of Florida described in s. 240.711, \$2.2 million, and for state-owned cultural facilities assigned to the Department of State, which receive a portion of any operating funds from the Department of State and one of the primary purposes of which is the presentation of fine arts or performing arts, \$500,000 not less than \$2.2 million.

The trust fund shall consist of moneys appropriated by the Legislature, moneys deposited pursuant to s. 607.1901(2), and moneys contributed to the fund from any other source.

Section 69. Subsection (11) of section 565.02, Florida Statutes, is amended to read:

565.02 License fees; vendors; clubs; caterers; and others.—

(11) ~~The Board of Trustees of the John and Mable Ringling Museum of Art~~ direct-support organization may obtain a license upon the payment of an annual license tax of \$400. Such license shall permit sales for consumption on the premises of the museum in conjunction with artistic, educational, cultural, civic, or charitable events held on the premises of the museum under the auspices or authorization of the licensee. The issuing of a license under this subsection is not subject to any quota or limitation, except that the license shall be issued only to the direct-support organization ~~board of trustees~~ of the museum or ~~its the board's~~ designee. Except as otherwise provided in this subsection, the entity licensed hereunder shall be treated as a vendor licensed to sell by the drink the beverages mentioned herein and shall be subject to all provisions relating to such vendors.

Section 70. Sections 58, 59, and 60 of this act shall take effect July 1, 2001.

Section 71. Except as otherwise provided in this act, this act shall take effect July 1, 2000.

Approved by the Governor June 13, 2000.

Filed in Office Secretary of State June 13, 2000.