

Committee Substitute for Committee Substitute for
Committee Substitute for Senate Bill No. 806

An act relating to aquaculture; amending s. 253.002, F.S.; providing duties of the Department of Agriculture and Consumer Services with respect to certain state lands; amending s. 253.01, F.S.; providing for disposition of fees for aquaculture leases; amending s. 253.67, F.S.; revising definitions; amending s. 253.71, F.S.; revising aquaculture lease contract fee and performance requirements; amending s. 253.72, F.S.; providing requirements for the marking of leased areas; amending s. 253.75, F.S.; requiring the Board of Trustees of the Internal Improvement Trust Fund to request comments by the Fish and Wildlife Conservation Commission regarding certain submerged land leases; amending s. 270.22, F.S.; conforming disposition of rental fees for aquaculture leases; amending s. 328.76, F.S.; providing for use of certain commercial vessel registration fees for aquaculture law enforcement and quality control programs; amending s. 370.06, F.S.; deleting authority of the Department of Agriculture and Consumer Services to issue certain special activity licenses under ch. 370, F.S.; clarifying requirements relating to the educational seminar for applicants for an Apalachicola Bay oyster harvesting license; amending s. 370.07, F.S.; providing for the distribution of funds from the Florida Saltwater Products Promotional Trust Fund; providing for transfer of responsibilities relating to the Apalachicola Bay oyster surcharge from the Department of Environmental Protection to the Department of Agriculture and Consumer Services; amending s. 370.13, F.S.; providing for a depredation endorsement on a saltwater products license; amending s. 370.16, F.S.; revising regulation of noncultured shellfish harvesting; providing for protection of shellfish and aquaculture products; repealing s. 370.16(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (13), (16), (17), (19), (22), (24), (25), (26), and (27), F.S., relating to regulation and enforcement of oyster and shellfish leases by the Department of Environmental Protection, protection and development of oyster and shellfish resources, and regulation of processing for commercial use; amending ss. 370.161 and 372.071, F.S.; conforming cross-references; amending s. 372.6673, F.S.; requiring collection of a marketing assessment fee for alligator products marketing and education; amending s. 372.6674, F.S.; requiring collection of a marketing and assessment fee; amending s. 373.046, F.S.; revising regulatory responsibility under pt. IV of ch. 373, F.S., for aquacultural activities; amending ss. 403.814, 409.2598, and 500.03, F.S.; conforming cross-references; amending ss. 570.18 and 570.29, F.S.; conforming provisions relating to organization of the Department of Agriculture and Consumer Services; creating s. 570.61, F.S.; providing powers and duties of the Division of Aquaculture of the Department of Agriculture and Consumer Services; creating s. 570.62, F.S.; providing for appointment and duties of a division director; repealing s. 370.26(3)-(5), F.S., and amending s. 597.003, F.S.; requiring a portion of profits from aquaculture contracts to be set aside for funding

certain aquaculture projects; amending s. 370.26, F.S.; transferring certain responsibilities relating to aquaculture development from the Department of Environmental Protection to the Department of Agriculture and Consumer Services; amending s. 597.004, F.S.; revising provisions relating to aquaculture certificates of registration; amending s. 597.0041, F.S.; providing an administrative fine; providing penalties; amending s. 597.005, F.S.; requiring review of aquaculture legislative budget requests by the Aquaculture Review Council; amending s. 597.006, F.S.; revising membership of the Aquaculture Interagency Coordinating Council; creating s. 597.010, F.S.; providing for regulation and enforcement of shellfish leases by the Department of Agriculture and Consumer Services; providing for continuation of leases previously issued under ch. 370, F.S.; providing for rental fees, fee adjustments, late fees, and forfeiture for nonpayment of fees; providing a lease surcharge for certain purposes; providing for rules; providing cultivation requirements for leased lands; restricting the inheriting or transfer of leases; requiring a deposit for investigations relating to petitions for cancellation of leases to natural reefs; providing for inclusion of natural reefs in leased areas under certain circumstances; restricting leases available in Franklin County; providing prohibitions; providing for shellfish protection and development; providing for special activity licenses for harvest or cultivation of oysters, clams, mussels, and crabs; providing for uncultured shellfish harvesting seasons in Apalachicola Bay; restricting harvest of shellfish by mechanical means; providing a penalty; providing for enhancement of oyster and clam industries by the counties; prohibiting dredging of dead shells; providing for cooperation with the United States Fish and Wildlife Service; providing requirements for vessels harvesting, gathering, or transporting oysters or clams for commercial purposes; providing a definition; renumbering and amending s. 370.071, F.S.; providing that regulation of shellfish processors includes processors processing scallops; providing for a fee for licensure or certification of processing facilities; authorizing an administrative fine for violation of rules relating to regulation of shellfish processors; amending s. 190.003, F.S.; including the owner of a long-term ground lease from a governmental entity within the definition of a "landowner"; amending s. 190.005, F.S.; providing that the establishment of a community development district must contain the consent of all landowners whose lands are to be included in the district; amending s. 190.021, F.S.; providing that certain ad valorem taxes and non-ad valorem assessments on property of a governmental entity are not a lien on the entity's underlying fee interest; amending s. 370.021, F.S.; providing penalties for illegal buying and selling of marine products; revising violations and penalties; amending s. 370.06, F.S.; authorizing the Fish and Wildlife Conservation Commission to accept credit cards for specified charges; requiring the denial of license renewal or issuance to those having unpaid fees, assessments, or fines; amending s. 370.13, F.S.; providing for fees and equitable rent related to stone crabs; prohibiting the acquisition of vested rights; providing penalties; amending s. 370.135, F.S.; providing penalties for theft from a blue crab trap; amending s. 370.14,

F.S.; conforming a statutory cross-reference; amending s. 370.142, F.S.; requiring the Board of Trustees of the Internal Improvement Trust Fund to approve a rule establishing equitable rent in the crawfish fishing if the rule is developed; waiving certificate transfer fees and surcharges when the transfer is within the immediate family due to death or disability; providing a penalty for theft from a crawfish trap; providing penalties; conforming cross-references; amending s. 370.143, F.S.; waiving a trap retrieval fee for specified licenseholders; requiring the payment of fees before license and endorsement renewal; waiving trap retrieval fees if the Governor declares a disaster emergency area; amending s. 370.15, F.S.; eliminating a requirement for noncommercial net registration; amending s. 370.153, F.S.; providing that noncommercial trawling must be authorized by the Fish and Wildlife Conservation Commission; amending s. 370.25, F.S.; providing that the artificial reef program is created within the Fish and Wildlife Conservation Commission; eliminating criteria for allocation of funds; limiting funding to specified corporations; providing requirements for the storage, possession, and transport of artificial reef materials; revising permit requirements; providing a felony penalty; providing appropriations; amending s. 190.012, F.S.; authorizing community development districts to fund certain environmental costs under certain circumstances; declaring legislative intent; providing an effective date.

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

Section 1. Section 253.002, Florida Statutes, is amended to read:

253.002 Department of Environmental Protection, ~~and~~ water management districts, and Department of Agriculture and Consumer Services; duties with respect to state lands.—

(1) The Department of Environmental Protection shall perform all staff duties and functions related to the acquisition, administration, and disposition of state lands, title to which is or will be vested in the Board of Trustees of the Internal Improvement Trust Fund. However, upon the effective date of rules adopted pursuant to s. 373.427, a water management district created under s. 373.069 shall perform the staff duties and functions related to the review of any application for authorization to use board of trustees-owned submerged lands necessary for an activity regulated under part IV of chapter 373 for which the water management district has permitting responsibility as set forth in an operating agreement adopted pursuant to s. 373.046(4); and effective July 1, 2000, the Department of Agriculture and Consumer Services shall perform the staff duties and functions related to the review of applications and compliance with lease conditions for use of board of trustees-owned submerged lands under leases issued pursuant to ss. 253.67-253.75 and s. 597.010. Unless expressly prohibited by law, the board of trustees may delegate to the department any statutory duty or obligation relating to the acquisition, administration, or disposition of lands, title to which is or will be vested in the board of trustees. The board of trustees may also delegate to any water management district created under s. 373.069 the authority to take final agency action, without any action on

behalf of the board, on applications for authorization to use board of trustees-owned submerged lands for any activity regulated under part IV of chapter 373 for which the water management district has permitting responsibility as set forth in an operating agreement adopted pursuant to s. 373.046(4). This water management district responsibility under this subsection shall be subject to the department's general supervisory authority pursuant to s. 373.026(7). The board of trustees may also delegate to the Department of Agriculture and Consumer Services the authority to take final agency action on behalf of the board on applications to use board of trustees-owned submerged lands for any activity for which that department has responsibility pursuant to ss. 253.67-253.75 and s. 597.010. However, the board of trustees shall retain the authority to take final agency action on establishing any areas for leasing, new leases, expanding existing lease areas, or changing the type of lease activity in existing leases. Upon issuance of an aquaculture lease or other real property transaction relating to aquaculture, the Department of Agriculture and Consumer Services must send a copy of the document and the accompanying survey to the Department of Environmental Protection.

(2) Delegations to the department, or a water management district, or the Department of Agriculture and Consumer Services of authority to take final agency action on applications for authorization to use submerged lands owned by the board of trustees, without any action on behalf of the board of trustees, shall be by rule. Until rules adopted pursuant to this subsection become effective, existing delegations by the board of trustees shall remain in full force and effect. However, the board of trustees is not limited or prohibited from amending these delegations. ~~By December 31, 1995,~~ The board of trustees shall adopt by rule any delegations of its authority to take final agency action without action by the board of trustees on applications for authorization to use board of trustees-owned submerged lands. Any final agency action, without action by the board of trustees, taken by the department, or a water management district, or the Department of Agriculture and Consumer Services on applications to use board of trustees-owned submerged lands shall be subject to the provisions of s. 373.4275. Notwithstanding any other provision of this subsection, the board of trustees, the Department of Legal Affairs, and the department retain the concurrent authority to assert or defend title to submerged lands owned by the board of trustees.

Section 2. Paragraph (b) of subsection (1) of section 253.01, Florida Statutes, is amended to read:

253.01 Internal Improvement Trust Fund established.—

(1)

(b) All revenues received from application fees charged by the Division of State Lands for the use in any manner, lease, conveyance, or release of any interest in or for the sale of state lands, except revenues from such fees charged by the Department of Agriculture and Consumer Services for aquaculture leases under ss. s. 253.71(2) and 597.010, must be deposited into the Internal Improvement Trust Fund. The fees charged by the division for reproduction of records relating to state lands must also be placed into

the fund. Revenues received by the Department of Agriculture and Consumer Services for aquaculture leases under ss. 253.71(2) and 597.010 shall be deposited in the General Inspection Trust Fund of the Department of Agriculture and Consumer Services.

Section 3. Section 253.67, Florida Statutes, is amended to read:

253.67 Definitions.—As used in ss. 253.67-253.75:

(1) “Aquaculture” means the cultivation of aquatic organisms.

~~(2)~~(4) “Board” means the Board of Trustees of the Internal Improvement Trust Fund.

(3) “Department” means the Department of Agriculture and Consumer Services ~~Environmental Protection~~.

~~(4)~~(2) “Water column” means the vertical extent of water, including the surface thereof, above a designated area of submerged bottom land.

Section 4. Paragraph (a) of subsection (2) and subsection (4) of section 253.71, Florida Statutes, are amended to read:

253.71 The lease contract.—When the board has determined that the proposed lease is not incompatible with the public interest and that the applicant has demonstrated his or her capacity to perform the operations upon which the application is based, it may proceed to consummate a lease contract having the following features in addition to others deemed desirable by the board:

(2) RENTAL FEES.—

(a) The lease contract shall specify such amount of rental per acre of leased bottom as may be agreed to by the parties and shall take the form of fixed rental to be paid throughout the term of the lease. Beginning January 1, 1990, a surcharge of \$5 per acre, or any fraction of an acre, per annum shall be levied upon each lease according to the guidelines set forth in s. ~~597.010(7)~~ ~~370.16(4)(b)~~. Beginning January 1, 2001, the surcharge shall be increased to \$10 per acre, or any fraction of an acre, per annum.

(4) PERFORMANCE REQUIREMENTS.—Failure of the lessee to perform effective cultivation shall constitute ground for cancellation of the lease and forfeiture to the state of all the works, improvements, and animal and plant life in and upon the leased land and water column. Effective cultivation shall consist of the grow out of the aquaculture product according to the business plan provided in the lease contract ~~guidelines set forth in s. 370.16(4)(e)~~.

Section 5. Section 253.72, Florida Statutes, is amended to read:

253.72 Marking of leased areas; restrictions on public use.—

(1) The board shall require all lessees to stake off and mark the areas under lease according to the conditions of the lease agreement and rules of

the board, by appropriate ranges, monuments, stakes, buoys, and fences, so placed as not to interfere unnecessarily with navigation and other traditional uses of the surface. ~~All lessees shall cause the area under lease and the names of the lessees to be shown by signs appropriately placed pursuant to regulations of the board.~~

(2) Except to the extent necessary to permit the effective development of the species of animal or plant life being cultivated by the lessee, the public shall be provided with means of reasonable ingress and egress to and from the leased area for traditional water activities such as boating, swimming, and fishing. All limitations upon the use by the public of the areas under lease that are authorized by the terms of the lease shall be clearly posted by the lessee pursuant to rules regulations by the board. Any person willfully violating posted restrictions commits ~~shall be guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) To assist in protecting shellfish aquaculture products produced on leases authorized pursuant to this chapter and chapter 597 370, harvesting shellfish is prohibited within a distance of 25 feet outside lawfully marked lease boundaries or within setback and access corridors within specifically designated high-density aquaculture lease areas and aquaculture use zones.

Section 6. Subsection (1) of section 253.75, Florida Statutes, is amended to read:

253.75 Studies and recommendations by the department and the Fish and Wildlife Conservation Commission; designation of recommended traditional and other use zones; supervision of aquaculture operations.—

(1) Prior to the granting of any lease under this act, the board shall request comments a recommendation ~~by the department, when the application relates to tidal bottoms, and by the Fish and Wildlife Conservation Commission, when the application relates to bottom land covered by fresh or salt water.~~ Such comments recommendations shall be based on such factors as an assessment of the probable effect of the proposed lease leasing arrangement ~~on the lawful rights of riparian owners, navigation, commercial and sport fishing, and the conservation of fish or other wildlife or other programs under the constitutional or statutory authority of the Fish and Wildlife Conservation Commission~~ natural resources, including beaches and shores.

Section 7. Subsection (2) of section 270.22, Florida Statutes, is amended to read:

270.22 Proceeds of state lands to go into Internal Improvement Trust Fund; exception.—

(2) Rental fees for aquaculture leases pursuant to s. 253.71(2) shall be deposited into the General Inspection Trust Fund of the Department of Agriculture and Consumer Services ~~Marine Resources Conservation Trust Fund of the Department of Environmental Protection~~. Such fees generated by shellfish-related aquaculture leases shall be used for shellfish-related

aquaculture activities, including research, lease compliance inspections, mapping, and siting.

Section 8. Section 328.76, Florida Statutes, is amended to read:

328.76 Marine Resources Conservation Trust Fund; vessel registration funds; appropriation and distribution.—

(1) Except as otherwise specified and less any administrative costs, all funds collected from the registration of vessels through the Department of Highway Safety and Motor Vehicles and the tax collectors of the state shall be deposited in the Marine Resources Conservation Trust Fund for recreational channel marking; public launching facilities; law enforcement and quality control programs; aquatic weed control; manatee protection, recovery, rescue, rehabilitation, and release; and marine mammal protection and recovery. The funds collected pursuant to s. 328.72(1) shall be transferred as follows:

(a) In each fiscal year, an amount equal to \$1 for each vessel registered in this state shall be transferred to the Save the Manatee Trust Fund for manatee and marine mammal research, protection, and recovery in accordance with the provisions of s. 370.12(4)(a).

(b) In addition, in each fiscal year, an amount equal to 50 cents for each vessel registered in this state shall be transferred to the Save the Manatee Trust Fund in accordance with the provisions of s. 370.12(4)(b) for use by those facilities approved to rescue, rehabilitate, and release manatees as authorized pursuant to the Fish and Wildlife Service of the United States Department of the Interior.

(c) Two dollars from each noncommercial vessel registration fee, except that for class A-1 vessels, shall be transferred to the Invasive Plant Control Trust Fund for aquatic weed research and control.

~~(d) Forty percent of the registration fees from commercial vessels shall be used for law enforcement and quality control programs.~~

~~(d)~~(e) Forty percent of the registration fees from commercial vessels shall be transferred to the Invasive Plant Control Trust Fund for aquatic plant research and control.

(e) Forty percent of the registration fees from commercial vessels shall be transferred by the Department of Highway Safety and Motor Vehicles, on a monthly basis, to the General Inspection Trust Fund of the Department of Agriculture and Consumer Services. These funds shall be used for shellfish and aquaculture law enforcement and quality control programs.

(2) All funds collected pursuant to s. 370.06(2) shall be deposited in the Marine Resources Conservation Trust Fund. Such funds shall be used to pay the cost of implementing the saltwater products license program. Additional proceeds from the licensing revenue shall be distributed among the following program functions:

(a) No more than 15 percent shall go to marine law enforcement;

(b) Twenty-five ~~No more than 25~~ percent shall go to the Florida Saltwater Products Promotion Trust Fund within the Department of Agriculture and Consumer Services, on a monthly basis, for the purpose of providing marketing and extension services including industry information and education; and

(c) The remainder shall go to the Fish and Wildlife Conservation Commission, for use in marine research and statistics development, including quota management.

Section 9. Paragraph (c) of subsection (4) and paragraph (e) of subsection (5) of section 370.06, Florida Statutes, are amended to read:

370.06 Licenses.—

(4) SPECIAL ACTIVITY LICENSES.—

~~(c) The Department of Agriculture and Consumer Services is authorized to issue special activity licenses, in accordance with s. 370.071, to permit the harvest or cultivation of oysters, clams, mussels, and crabs when such activities relate to quality control, sanitation, public health regulations, innovative technologies for aquaculture activities, or the protection of shellfish resources provided in this chapter.~~

(5) APALACHICOLA BAY OYSTER HARVESTING LICENSE.—

(e) Each person who applies for an Apalachicola Bay oyster harvesting license shall, before receiving the license for the first time, attend an educational seminar of not more than 16 hours length, developed and conducted jointly by the Department of Environmental Protection's Apalachicola National Estuarine Research Reserve, the Division of Law Enforcement of the Fish and Wildlife Conservation Commission, and the Department of Agriculture and Consumer Services' Apalachicola District Shellfish Environmental Assessment Laboratory. The seminar shall address, among other things, oyster biology, conservation of the Apalachicola Bay, sanitary care of oysters, small business management, and water safety. The seminar shall be offered five times per year, and each person attending shall receive a certificate of participation to present when obtaining an Apalachicola Bay oyster harvesting license. The educational seminar is not required for renewal of an Apalachicola Bay oyster harvesting license.

Section 10. Paragraph (j) of subsection (2) and paragraphs (f), (h), (i), and (k) of subsection (3) of section 370.07, Florida Statutes, are amended to read:

370.07 Wholesale and retail saltwater products dealers; regulation.—

(2) LICENSES; AMOUNT, TRUST FUND.—

(j) License or privilege taxes, together with any other funds derived from the Federal Government or from any other source, shall be deposited in a Florida Saltwater Products Promotion Trust Fund to be administered by the Department of Agriculture and Consumer Services for the sole purpose of

promoting all fish and saltwater products produced in this state, except that 4 percent of the total wholesale and retail saltwater products dealer's license fees collected shall be deposited into the Marine Resources Conservation Trust Fund administered by the Fish and Wildlife Conservation Commission for the purpose of processing wholesale and retail saltwater products dealer's licenses.

(3) APALACHICOLA BAY OYSTER SURCHARGE.—

(f) The Department of Revenue shall collect the surcharge for transfer into the General Inspection Trust Fund of the Department of Agriculture and Consumer Services Marine Resources Conservation Trust Fund of the Department of Environmental Protection.

(h) Annually, the Department of Agriculture and Consumer Services and the Fish and Wildlife Conservation Commission Environmental Protection shall furnish the Department of Revenue with a current list of wholesale dealers in the state.

(i) Collections received by the Department of Revenue from the surcharge shall be transferred quarterly to the General Inspection Trust Fund of the Department of Agriculture and Consumer Services Department of Environmental Protection Marine Resources Conservation Trust Fund, less the costs of administration.

(k) The Department of Agriculture and Consumer Services Environmental Protection shall use or distribute funds generated by this surcharge, less reasonable costs of collection and administration, to fund the following oyster management and restoration programs in Apalachicola Bay:

1. The relaying and transplanting of live oysters.
2. Shell planting to construct or rehabilitate oyster bars.
3. Education programs for licensed oyster harvesters on oyster biology, aquaculture, boating and water safety, sanitation, resource conservation, small business management, and other relevant subjects.
4. Research directed toward the enhancement of oyster production in the bay and the water management needs of the bay.

Section 11. Subsection (8) is added to section 370.13, Florida Statutes, to read:

370.13 Stone crab; regulation.—

(8) The Fish and Wildlife Conservation Commission shall issue a depredation endorsement on the saltwater products license, which shall entitle the license holder to possess and use up to 75 stone crab traps and up to 75 blue crab traps, notwithstanding any other provisions of law, for the incidental take of destructive or nuisance stone crabs or blue crabs within one mile of aquaculture shellfish beds. Any marine aquaculture producer as defined by s. 370.26 F.S., who raises shellfish may obtain a depredation endorsement by providing an aquaculture registration certificate to the Commis-

sion. No stone crabs or blue crabs taken under this provision may be sold or offered for sale.

Section 12. Subsections (1) through (11), (13), (16), (17), (19), (22), and (24) through (27) of section 370.16, Florida Statutes, are repealed, and subsections (12), (14), (15), (18), (20), (21), (23), and (28) of that section are amended to read:

370.16 Noncultured shellfish harvesting Oysters and shellfish; regulation.—

(1)(12) PROTECTION OF OYSTER AND CLAM REEFS AND SHELLFISH AQUACULTURE PRODUCTS.—

~~(a) The Department of Environmental Protection shall improve, enlarge, and protect the natural oyster and clam reefs of this state to the extent it may deem advisable and the means at its disposal will permit.~~

~~(a)(b) The Fish and Wildlife Conservation Commission shall, to the same extent, assist in protecting shellfish aquaculture products produced on leased or granted reefs in the hands of lessees or grantees from the state. Harvesting shellfish is prohibited within a distance of 25 feet outside lawfully marked lease boundaries or within setback and access corridors within specifically designated high-density aquaculture lease areas and aquaculture use zones.~~

~~(b)(c) The department, in cooperation with the commission, shall provide the Legislature with recommendations as needed for the development and the proper protection of the rights of the state and private holders therein with respect to the oyster and clam business.~~

(2)(14) SHELLFISH HARVESTING SEASONS; DAYS: SPECIAL PROVISIONS RELATING TO APALACHICOLA BAY.—

(a) The Fish and Wildlife Conservation Commission shall by rule set the noncultured consider setting the shellfish harvesting seasons in the Apalachicola Bay, as follows:

- ~~1. The open season shall be from October 1 to July 31 of each year.~~
- ~~2. The entire bay, including private leased or granted grounds, shall be closed to shellfish harvesting from August 1 to September 30 of each year for the purpose of oyster relaying and transplanting and shell planting.~~

(b) If the commission changes the harvesting seasons by rule as set forth in this subsection, for 3 years after the new rule takes effect, the commission, in cooperation with the Department of Agriculture and Consumer Services, shall monitor the impacts of the new harvesting schedule on the bay and on local shellfish harvesters to determine whether the new harvesting schedule should be discontinued, retained, or modified. In monitoring the new schedule and in preparing its report, the commission shall consider the following information shall be considered:

1. Whether the bay benefits ecologically from the new harvesting schedule being closed to shellfish harvesting from August 1 to September 30 of each year.

2. Whether the new harvesting schedule enhances the enforcement of shellfish harvesting laws in the bay.

3. Whether the new harvesting schedule enhances natural shellfish production, oyster relay and planting programs, and shell planting programs in the bay.

4. Whether the new harvesting schedule has more than a short-term adverse economic impact, if any, on local shellfish harvesters.

~~(c) The Fish and Wildlife Conservation Commission by rule shall consider restricting harvesting on shellfish grants or leases to the same days of the week as harvesting on public beds.~~

~~(3)(45) REMOVING OYSTERS, CLAMS, OR MUSSELS FROM NATURAL REEFS; LICENSES, ETC., PENALTY.—~~

(a) It is unlawful to use a dredge or any means or implement other than hand tongs in removing oysters from the natural or artificial state reefs. This restriction shall apply to all areas of the Apalachicola Bay for all shellfish harvesting, excluding private grounds leased or granted by the state prior to July 1, 1989, if the lease or grant specifically authorizes the use of implements other than hand tongs for harvesting. Except in the Apalachicola Bay, upon the payment of \$25 annually, for each vessel or boat using a dredge or machinery in the gathering of clams or mussels, a special activity license may be issued by the Fish and Wildlife Conservation Commission pursuant to s. 370.06 for such use to such person.

~~(b) Special activity licenses issued to harvest shellfish by dredge or other mechanical means from privately held shellfish leases or grants in Apalachicola Bay shall include, but not be limited to, the following conditions:~~

~~(b)1.~~ The use of any mechanical harvesting device other than ordinary hand tongs for taking shellfish for any purpose from public shellfish beds in Apalachicola Bay shall be unlawful.

~~(c)2.~~ The possession of any mechanical harvesting device on the waters of Apalachicola Bay from 5 p.m. until sunrise shall be unlawful.

~~3.— Leaseholders or grantees shall telephonically notify the Fish and Wildlife Conservation Commission no less than 48 hours prior to each day's use of a dredge or scrape in order to arrange for a commission officer to be present on the lease or grant area while a dredge or scrape is used on the lease or grant. Under no circumstances may a dredge or scrape be used without a commission officer present.~~

~~4.— Only two dredges or scrapes per lease or grant may be possessed or operated at any time.~~

~~(d)5.~~ Each vessel used for the transport or deployment of a dredge or scrape shall prominently display the lease or grant number or numbers, in numerals which are at least 12 inches high and 6 inches wide, in such a manner that the lease or grant number or numbers are readily identifiable from both the air and the water. ~~The commission shall apply other statutes, rules, or conditions necessary to protect the environment and natural resources from improper transport, deployment, and operation of a dredge or scrape. Any violation of this paragraph or of any other statutes, rules, or conditions referenced in the special activity license shall be considered a violation of the license and shall result in revocation of the license and forfeiture of the bond submitted to the commission as a prerequisite to the issuance of this license.~~

~~(e)(e)~~ Oysters may be harvested from natural or public ~~or private leased or granted~~ grounds by common hand tongs or by hand, by scuba diving, free diving, leaning from vessels, or wading. In the Apalachicola Bay, this provision shall apply to all shellfish.

The commission shall apply other statutes, rules, or conditions necessary to protect the environment and natural resources from improper transport, deployment, and operation of a dredge or scrape. Any violation of this subsection or of any other statutes, rules, or conditions referenced in the special activity license shall be considered a violation of the license and shall result in revocation of the license and forfeiture of the bond submitted to the commission as a prerequisite to the issuance of this license.

~~(4)(18)~~ FALSE RETURNS AS TO OYSTERS OR CLAMS HANDLED.— Each packer, canner, corporation, firm, commission person, or dealer in fish shall, on the first day of each month, make a return under oath to the Fish and Wildlife Conservation Commission, as to the number of oysters, clams, and shellfish purchased, caught, or handled during the preceding month. Whoever is found guilty of making any false affidavit to any such report is guilty of perjury and punished as provided by law, and any person who fails to make such report shall be punished by a fine not exceeding \$500 or by imprisonment in the county jail not exceeding 6 months.

~~(5)(20)~~ WATER PATROL FOR COLLECTION OF TAX.—

(a) The Fish and Wildlife Conservation Commission may establish and maintain necessary patrols of the salt waters of Florida, with authority to use such force as may be necessary to capture any vessel or person violating the provisions of the laws relating to oysters and clams, and may establish ports of entry at convenient locations where the severance or privilege tax levied on oysters and clams may be collected or paid and may make such rules and regulations as it may deem necessary for the enforcement of such tax.

(b) Each person in any way dealing in shellfish harvesting from public reefs or beds shall keep a record, on blanks or forms prescribed by the commission, of all oysters, clams, and shellfish taken, purchased, used, or handled by him or her, with the name of the persons from whom purchased, if purchased, together with the quantity and the date taken or purchased,

and shall exhibit this account at all times when requested so to do by the commission or any conservation agent; and he or she shall, on the first day of each month, make a return under oath to the commission as to the number of oysters, clams, and shellfish purchased, caught, or handled during the preceding month. The commission may require detailed returns whenever it deems them necessary.

(6)(24) SEIZURE OF VESSELS AND CARGOES VIOLATING OYSTER AND CLAM LAWS, ETC.—Vessels, with their cargoes, violating the provisions of the laws relating to oysters and clams may be seized by anyone duly and lawfully authorized to make arrests under this section or by any sheriff or the sheriff's deputies, and taken into custody, and when not arrested by the sheriff or the sheriff's deputies, delivered to the sheriff of the county in which the seizure is made, and shall be liable to forfeiture, on appropriate proceedings being instituted by the Fish and Wildlife Conservation Commission, before the courts of that county. In such case the cargo shall at once be disposed of by the sheriff, for account of whom it may concern. Should the master or any of the crew of said vessel be found guilty of using dredges or other instruments in fishing oysters on natural reefs contrary to law, or fishing on the natural oyster or clam reefs out of season, or unlawfully taking oysters or clams belonging to a lessee, such vessel shall be declared forfeited by the court, and ordered sold and the proceeds of the sale shall be deposited with the Treasurer to the credit of the General Revenue Fund; any person guilty of such violations shall not be permitted to have any license provided for in this chapter within a period of 1 year from the date of conviction. Pending proceedings such vessel may be released upon the owner furnishing bond, with good and solvent security in double the value of the vessel, conditioned upon its being returned in good condition to the sheriff to abide the judgment of the court.

(7)(23) DREDGING OF DEAD SHELLS PROHIBITED.—The dredging of dead shell deposits is prohibited in the state.

(8)(28) REQUIREMENTS FOR OYSTER VESSELS.—

(a) All vessels used for the harvesting, gathering, or transporting of non-cultured oysters for commercial use shall be constructed and maintained to prevent contamination or deterioration of oysters. To this end, all such vessels shall be provided with false bottoms and bulkheads fore and aft to prevent oysters from coming in contact with any bilge water. No dogs or other animals shall be allowed at any time on vessels used to harvest or transport oysters. A violation of any provision of this subsection shall result in at least the revocation of the violator's license.

~~(b) For the purpose of this subsection, "commercial use" shall be a quantity of more than 4 bushels, or more than 2 gallons, of shucked oysters, per person or per boat, or any number or quantity of oysters if the oysters are to be sold.~~

Section 13. Subsections (1) and (2) of section 370.161, Florida Statutes, are amended to read:

370.161 Oyster bottom land grants made pursuant to ch. 3293.—

(1) All grants previously issued by the several boards of county commissioners under the authority of chapter 3293, 1881, Laws of Florida, shall be subject to provisions of s. 597.010 ~~370.16~~, relating to the marking of such lands, the payment of rents, the cultivation of such lands and the forfeiture provisions.

(2) Any grantee of lands referred to in subsection (1) shall mark such lands and begin cultivation thereof as set forth in s. 597.010 ~~370.16~~, within 90 days after the effective date of this act. The rentals prescribed by s. 597.010 ~~370.16~~, shall be payable immediately upon the effective date of this act and in accordance with the provisions of said section.

Section 14. Section 372.071, Florida Statutes, is amended to read:

372.071 Powers of arrest by agents of Department of Environmental Protection or Fish and Wildlife Conservation Commission.—Any certified law enforcement officer of the Department of Environmental Protection or the Fish and Wildlife Conservation Commission, upon receiving information, relayed to her or him from any law enforcement officer stationed on the ground, on the water, or in the air, that a driver, operator, or occupant of any vehicle, boat, or airboat has violated any section of chapter 327, chapter 328, chapter 370, or this chapter, or s. 597.010 or s. 597.020, may arrest the driver, operator, or occupant for violation of said laws when reasonable and proper identification of the vehicle, boat, or airboat and reasonable and probable grounds to believe that the driver, operator, or occupant has committed or is committing any such offense have been communicated to the arresting officer by the other officer stationed on the ground, on the water, or in the air.

Section 15. Subsection (4) of section 372.6673, Florida Statutes, is amended to read:

372.6673 Taking and possession of alligators; trapping licenses; fees.—

(4) No person shall take any alligator egg occurring in the wild or possess any such egg unless such person has obtained, or is a licensed agent of another person who has obtained, an alligator egg collection permit. The alligator egg collection permit shall be required in addition to the alligator farming license provided in paragraph (2)(d). The commission is authorized to assess a fee for issuance of the alligator egg collection permit of up to \$5 per egg authorized to be taken or possessed pursuant to such permit. Irrespective of whether a fee is assessed, of which \$1 per egg collected and retained, excluding eggs collected on private wetland management areas, shall may be transferred from the alligator management program to the General Inspection Trust Fund, to be administered by the Department of Agriculture and Consumer Services for the purpose of providing marketing and education services with respect to alligator products produced in this state, notwithstanding other provisions in this chapter.

Section 16. Subsection (2) of section 372.6674, Florida Statutes, is amended to read:

372.6674 Required tagging of alligators and hides; fees; revenues.—The tags provided in this section shall be required in addition to any license required under s. 372.6673.

(2) The commission may require that an alligator hide validation tag (CITES tag) be affixed to the hide of any alligator taken from the wild and that such hide be possessed, purchased, sold, offered for sale, or transported in accordance with commission rule. The commission is authorized to assess a fee of up to \$30 for each alligator hide validation tag issued. Irrespective of whether a fee is assessed, of which \$5 per validated hide, excluding those validated from public hunt programs and alligator farms, shall may be transferred from the alligator management program to the General Inspection Trust Fund, to be administered by the Department of Agriculture and Consumer Services for the purpose of providing marketing and education services with respect to alligator products produced in this state, notwithstanding other provisions in this chapter.

Section 17. Subsection (5) of section 373.046, Florida Statutes, is amended to read:

373.046 Interagency agreements.—

(5) Notwithstanding the provisions of s. 403.927, when any operating agreement is developed pursuant to subsection (4),:

(a) the department shall have regulatory responsibility under part IV of this chapter for:

1. ~~All saltwater aquaculture activities located on sovereignty submerged land or in the water column above such land and adjacent facilities directly related to the aquaculture activity.~~

2. aquaculture activities that meet or exceed the thresholds for aquaculture general permits authorized pursuant to ss. 370.26 and 403.814.

3. ~~Aquaculture activities within the Northwest Florida Water Management District.~~

(b) ~~Water management districts shall have regulatory responsibility under part IV of this chapter for aquaculture activities not retained by the department in paragraph (a).~~

(c) ~~Upon agreement by the applicant, the department, and the applicable water management district, the department and water management district may reassign the regulatory responsibilities described in paragraphs (a) and (b), based on the specific aquaculture operation, to achieve a more efficient and effective permitting process.~~

Section 18. Subsection (11) of section 403.814, Florida Statutes, is amended to read:

403.814 General permits; delegation.—

(11) Upon agreement by the applicant, the department, and the applicable water management district, the department and water management district may reassign the regulatory responsibilities described in s. 373.046(5)(a) and (b), based on the specific aquaculture operation, to achieve a more efficient and effective permitting process.

Section 19. Subsection (1) of section 409.2598, Florida Statutes, is amended to read:

409.2598 Suspension or denial of new or renewal licenses; registrations; certifications.—

(1) The Title IV-D agency may petition the court that entered the support order or the court that is enforcing the support order to deny or suspend the license, registration, or certificate issued under chapter 231, chapter 370, chapter 372, chapter 409, part II of chapter 455, or chapter 559, or s. 328.42 or s. 597.010 of any obligor with a delinquent child support obligation or who fails, after receiving appropriate notice, to comply with subpoenas, orders to appear, orders to show cause, or similar orders relating to paternity or child support proceedings. However, a petition may not be filed until the Title IV-D agency has exhausted all other available remedies. The purpose of this section is to promote the public policy of the state as established in s. 409.2551.

Section 20. Paragraph (n) of subsection (1) of section 500.03, Florida Statutes, is amended to read:

500.03 Definitions of terms; construction; applicability.—

(1) For the purpose of this chapter, the term:

(n) “Food establishment” means any factory, food outlet, or any other facility manufacturing, processing, packing, holding, or preparing food, or selling food at wholesale or retail. The term does not include any business or activity that is regulated under ~~chapter 370~~, chapter 509, or chapter 601. The term also does not include any establishments that pack fruits and vegetables in their raw or natural states, including those fruits or vegetables that are washed, colored, or otherwise treated in their unpeeled, natural form before they are marketed.

Section 21. Section 570.18, Florida Statutes, is amended to read:

570.18 Organization of departmental work.—In the assignment of functions to the ~~12~~ 14 divisions of the department created in s. 570.29, the department shall retain within the Division of Administration, in addition to executive functions, those powers and duties enumerated in s. 570.30. The department shall organize the work of the other ~~11~~ 10 divisions in such a way as to secure maximum efficiency in the conduct of the department. The divisions created in s. 570.29 are solely to make possible the definite placing of responsibility. The department shall be conducted as a unit in which every employee, including each division director, is assigned a definite workload, and there shall exist between division directors a spirit of cooperative effort to accomplish the work of the department.

Section 22. Present subsections (4) through (11) of section 570.29, Florida Statutes, are renumbered as subsections (5) through (12), respectively, and a new subsection (4) is added to that section to read:

570.29 Departmental divisions.—The department shall include the following divisions:

(4) Aquaculture.

Section 23. Section 570.61, Florida Statutes, is created to read:

570.61 Division of Aquaculture; powers and duties.—The powers and duties of the Division of Aquaculture shall include, but are not limited to, administering the aquaculture certification program; enforcing shellfish sanitation standards; administering the aquaculture and shellfish lease programs; ensuring that shellfish processing facilities comply with applicable food safety requirements; mitigating, creating, and enhancing natural shellfish harvesting areas; providing education to fishermen and aquaculturists; promoting aquaculture development; purchasing commodities as necessary to carry out the provisions of this section; receiving and accepting grants, aids, gifts, and donations; providing grants, aids, and other technical assistance; and ensuring the safety of Florida waters.

Section 24. Section 570.62, Florida Statutes, is created to read:

570.62 Director; duties.—

(1) The director of the Division of Aquaculture shall be appointed by the commissioner and shall serve at the commissioner's pleasure.

(2) The director shall supervise, direct, and coordinate the activities of the division, exercise such other powers and duties as authorized by the commissioner, and enforce the provisions of chapter 597, the rules adopted thereunder, and any other chapter or rule necessary to carry out the responsibilities of the division.

Section 25. Paragraph (f) of subsection (1) of section 597.003, Florida Statutes, is amended, and paragraphs (l) and (k) are added to that subsection to read:

597.003 Powers and duties of Department of Agriculture and Consumer Services.—

(1) The department is hereby designated as the lead agency in encouraging the development of aquaculture in the state and shall have and exercise the following functions, powers, and duties with regard to aquaculture:

(f) Submit the list of research and development projects proposed to be funded through the department as identified in the state aquaculture plan, along with the department's legislative budget request to the Governor, the President of the Senate, and the Speaker of the House of Representatives. If funded, these projects shall be contracted for by the Division of Aquaculture and shall require public-private partnerships, when appropriate. The contracts shall require a percentage of the profit generated by the project to

be deposited into the General Inspection Trust Fund solely for funding aquaculture projects recommended by the Aquaculture Review Council.

(k) Make available state lands and the water column for the purpose of producing aquaculture products when the aquaculture activity is compatible with state resource management goals, environmental protection, and proprietary interest and when such state lands and waters are determined to be suitable for aquaculture development by the Board of Trustees of the Internal Improvement Trust Fund pursuant to s. 253.68; and be responsible for all saltwater aquaculture activities located on sovereignty submerged land or in the water column above such land and adjacent facilities directly related to the aquaculture activity.

1. The department shall act in cooperation with other state and local agencies and programs to identify and designate sovereignty lands and waters that would be suitable for aquaculture development.

2. The department shall identify and evaluate specific tracts of sovereignty submerged lands and water columns in various areas of the state to determine where such lands and waters are suitable for leasing for aquaculture purposes. Nothing in this subparagraph or subparagraph 1. shall preclude the applicant from applying for sites identified by the applicant.

3. The department shall provide assistance in developing technologies applicable to aquaculture activities, evaluate practicable production alternatives, and provide agreements to develop innovative culture practices.

(l) Act as a clearinghouse for aquaculture applications, and act as a liaison between the Fish and Wildlife Conservation Commission, the Division of State Lands, the Department of Environmental Protection district offices, other divisions within the Department of Environmental Protection, and the water management districts. The Department of Agriculture and Consumer Services shall be responsible for regulating marine aquaculture producers, except as specifically provided herein.

Section 26. Subsections (3), (4), and (5) of section 370.26, Florida Statutes, are repealed.

Section 27. Subsections (1), (2), and (4) and paragraph (b) of subsection (5) of section 597.004, Florida Statutes, are amended to read:

597.004 Aquaculture certificate of registration.—

(1) SHELLFISH CERTIFICATION.—Any person engaging in shellfish aquaculture must be certified by the department. The applicant for a certificate of registration shall submit the following to the department:

- (a) Applicant's name/title.
- (b) Company name.
- (c) Complete mailing address.

- (d) Legal property description of all aquaculture facilities.
- (e) Actual physical street address for each aquaculture facility.
- (f)~~(e)~~ Description of production facilities.
- (g)~~(f)~~ Aquaculture products to be produced.
- (h)~~(g)~~ Fifty dollar annual registration fee.
- ~~(2) NONSHELLFISH CERTIFICATION.—~~

~~(a) Any person engaging in nonshellfish aquaculture, except as otherwise provided in this section, must be certified by the department. The applicant for a certificate of registration for nonshellfish products shall submit the following to the department:~~

~~1. The information requested in subsection (1) above.~~

~~(i)2. Documentation that the rules adopted herein have been complied with in accordance with paragraph (2)(a) (b) below.~~

(2) RULES.—

(a)~~(b)~~ The department, in consultation with the Department of Environmental Protection, the water management districts, environmental groups, and representatives from the affected farming groups, shall adopt rules to:

1. Specify the requirement of best-management practices to be implemented by holders of aquaculture certificates of registration.
2. Establish procedures for holders of aquaculture certificates of registration to submit the notice of intent to comply with best-management practices.
3. Establish schedules for implementation of best-management practices, and of interim measures that can be taken prior to adoption of best-management practices. Interim measures may include the continuation of regulatory requirements in effect on June 30, 1998.
4. Establish a system to assure the implementation of best-management practices, including recordkeeping requirements.

(b) Rules adopted pursuant to this subsection shall become effective pursuant to the applicable provisions of chapter 120, but must be submitted to the President of the Senate and the Speaker of the House of Representatives for review by the Legislature. The rules shall be referred to the appropriate committees of substance and scheduled for review during the first available regular session following adoption. Except as otherwise provided by operation of law, such rules shall remain in effect until rejected or modified by act of the Legislature.

(c) Notwithstanding any provision of law, the Department of Environmental Protection is not authorized to institute proceedings against any

person certified under this section to recover any costs or damages associated with contamination of groundwater or surface water, or the evaluation, assessment, or remediation of contamination of groundwater or surface water, including sampling, analysis, and restoration of potable water supplies, where the contamination of groundwater or surface water is determined to be the result of aquaculture practices, provided the holder of an aquaculture certificate of registration:

1. Provides the department with a notice of intent to implement applicable best-management practices adopted by the department;
2. Implements applicable best-management practices as soon as practicable according to rules adopted by the department; and
3. Implements practicable interim measures identified and adopted by the department which can be implemented immediately, or according to rules adopted by the department.

(d) There is a presumption of compliance with state groundwater and surface water standards if the holder of an aquaculture certificate of registration implements best-management practices that have been verified by the Department of Environmental Protection to be effective at representative sites and complies with the following:

1. Provides the department with a notice of intent to implement applicable best-management practices adopted by the department;
2. Implements applicable best-management practices as soon as practicable according to rules adopted by the department; and
3. Implements practicable interim measures identified and adopted by the department which can be implemented immediately, or according to rules adopted by the department.

(e) The department shall provide, by December 31, 1999, to the President of the Senate and the Speaker of the House of Representatives, a progress report concerning the development, implementation, and effectiveness of best-management practices to prevent contamination of groundwater and surface water.

(f) This section does not limit federally delegated regulatory authority.

(g) Any aquatic plant producer permitted by the department pursuant to s. 369.25 shall also be subject to the requirements of this section ~~subsection~~.

(h) Any alligator producer with an alligator farming license and permit to establish and operate an alligator farm shall be issued an aquaculture certificate of registration pursuant to this section ~~subsection (1) above~~. This chapter does not supersede the authority under chapter 372, ~~chapter 373, or chapter 403~~ to regulate alligator farms and alligator farmers.

(4) IDENTIFICATION OF AQUACULTURE PRODUCTS.—Aquaculture products shall be identified while possessed, processed, transported, or

sold as provided in this subsection, ~~except those subject to the rules of the Fish and Wildlife Conservation Commission as they relate to alligators only.~~

(a) Aquaculture products shall be identified by an aquaculture certificate of registration number from harvest to point of sale. Any person who possesses aquaculture products must show, by appropriate receipt, bill of sale, bill of lading, or other such manifest where the product originated.

(b) Marine aquaculture products shall be transported in containers that separate such product from wild stocks, and shall be identified by tags or labels that are securely attached and clearly displayed.

(c) Each aquaculture registrant who sells food products labeled as "aquaculture or farm raised" must have such products containerized and clearly labeled in accordance with s. 500.11. Label information must include the name, address, and aquaculture certification number. This requirement is designed to segregate the identity of wild and aquaculture products.

(5) SALE OF AQUACULTURE PRODUCTS.—

(b) Aquaculture shellfish must be sold and handled in accordance with ~~s. 597.020 shellfish handling regulations of the Department of Environmental Protection established to protect public health.~~

Section 28. Subsection (2) of section 597.0041, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

597.0041 Prohibited acts; penalties.—

(2)(a) Any person who violates any provision of this chapter or any rule promulgated hereunder is subject to a suspension or revocation of his or her certificate of registration or license under this chapter. The department may, in lieu of, or in addition to the suspension or revocation, impose on the violator an administrative fine in an amount not to exceed \$1,000 per violation per day.

(b) Except as provided in subsection (4), any person who violates any provision of this chapter, or rule hereunder, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Any person who violates any provision of s. 597.010 or s. 597.020, or any rule adopted under those sections, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 for the first offense; and for the second or any subsequent offense within a 12-month period, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 29. Paragraph (c) of subsection (3) of section 597.005, Florida Statutes, is amended to read:

597.005 Aquaculture Review Council.—

(3) RESPONSIBILITIES.—The primary responsibilities of the Aquaculture Review Council are to:

(c) Submit to the commissioner on an annual basis:

1. A prioritized list of research projects to be included in the department's legislative budget request. Each year, the council shall review the aquaculture legislative budget requests submitted to the department and rank them according to the state aquaculture plan.

2. Recommendations to be forwarded to the Speaker of the House of Representatives and the President of the Senate on legislation needed to help the aquaculture industry.

3. Recommendations on aquaculture projects, activities, research, and regulation and other needs to further the development of the aquaculture industry.

Section 30. Subsection (1) of section 597.006, Florida Statutes, is amended to read:

597.006 Aquaculture Interagency Coordinating Council.—

(1) CREATION.—The Legislature finds and declares that there is a need for interagency coordination with regard to aquaculture by the following agencies: the Department of Agriculture and Consumer Services, the Office of Tourism, Trade, and Economic Development ~~Department of Commerce~~, the Department of Community Affairs, the Department of Environmental Protection, the Department of Labor and Employment Security, the Fish and Wildlife Conservation Commission, the statewide consortium of universities under the Florida Institute of Oceanography, Florida Agricultural and Mechanical University, the Institute of Food and Agricultural Sciences at the University of Florida, and the Florida Sea Grant Program, ~~and each water management district.~~ It is therefore the intent of the Legislature to hereby create an Aquaculture Interagency Coordinating Council to act as an advisory body as defined in s. 20.03(9).

Section 31. Section 597.010, Florida Statutes, is created to read:

597.010 Shellfish regulation; leases.—

(1) LEASE, APPLICATION FORM.—When any qualified person desires to lease a part of the bottom, water column, or bed of any of the water of this state for the purpose of growing oysters or clams, as provided for in this section, he or she shall present to the department a written application pursuant to s. 253.69.

(2) LANDS TO BE LEASED.—The lands leased shall be as compact as possible, taking into consideration the shape of the body of water and the condition of the bottom as to hardness, or soft mud or sand, or other conditions that would render the bottoms desirable or undesirable for the purpose of oyster or clam cultivation.

(3) SURVEYS, PLATS, AND MAPS OF REEFS.—The department shall accept, adopt, and use official reports, surveys, and maps of oyster, clam, or other shellfish grounds made under the direction of any authority of the

United States as prima facie evidence of the natural oyster and clam reefs and beds, for the purpose and intent of this chapter. The department may also make surveys of any natural oyster or clam reefs or beds when it deems such surveys necessary and where such surveys are made pursuant to an application for a lease, the cost thereof may be charged to the applicant as a part of the cost of his or her application.

(4) EXECUTION OF LEASES; LESSEE TO STAKE OFF BOUNDARIES; PENALTY FOR FAILURE TO COMPLY WITH REGULATIONS.— When a survey of the lands to be leased has been completed pursuant to s. 253.69 and filed with the department, and the cost thereof paid by the applicant, the department may execute in duplicate a lease of the water bottoms to the applicant. One duplicate, with a plat or map of the water bottoms so leased, shall be delivered to the applicant, and the other, with a plat or map of the bottom so leased, shall be retained by the department and registered in a lease book which shall be kept exclusively for that purpose by the department; thereafter the lessees shall enjoy the exclusive use of the lands and all oysters and clams, shell, and cultch grown or placed thereon shall be the exclusive property of such lessee as long as he or she shall comply with the provisions of this chapter and chapter 253. The department shall require the lessee to stake off and mark the water bottoms leased, by such ranges, monuments, stakes, buoys, etc., so placed and made as not to interfere with the navigation, as it may deem necessary to locate the same to the end that the location and limits of the lands embraced in such lease be easily and accurately found and fixed, and such lessee shall keep the same in good condition during the open and closed oyster or clam season. All leases shall be marked according to the standards set forth in s. 253.72. The department may stipulate in each individual lease contract the types, shape, depth, size, and height of marker or corner posts. Failure on the part of the lessee to comply with the orders of the department to this effect within the time fixed by it, and to keep the markers, etc., in good condition during the open and closed oyster or clam season, shall subject such lessee to a fine not exceeding \$100 for each and every such offense.

(5) LEASES IN PERPETUITY; RENT.—

(a) All leases issued previously under the provisions of s. 370.16 shall be enforced under the authority of this chapter, notwithstanding any other law to the contrary, and shall continue in perpetuity under such restrictions as stated in the lease agreement. The annual rental fee charged for all leases shall consist of the minimum rate of \$15 per acre, or any fraction of an acre, per year and shall be adjusted on January 1, 1995, and every 5 years thereafter, based on the 5-year average change in the Consumer Price Index. Rent shall be paid in advance of January 1 of each year or in the case of a new lease at the time of signing, regardless of who holds the lease.

(b) All fees collected under this subsection and subsection (6) shall be deposited in the General Inspection Trust Fund and shall be used for shellfish aquaculture activities.

(6) FORFEITURE FOR NONPAYMENT.—All leases shall stipulate that failure to timely pay the rent on or before January 1 of each year shall cause

the department, at its discretion, to terminate and cancel the lease after the department has given the lessee 30 days' written notice of the nonpayment. If after receiving the notice the lessee chooses to keep the lease, the lessee shall pay the rental fee plus a \$50 late fee within the 30-day period. After the 30-day notice has expired, the department may take possession of the lease and all improvements, assets, clams, and oysters thereon.

(7) SURCHARGE FOR IMPROVEMENT OR REHABILITATION.—A surcharge of \$10 per acre, or any fraction of an acre, per annum shall be levied upon each lease, other than a perpetual lease granted pursuant to chapter 370 prior to 1985, and deposited into the General Inspection Trust Fund. The purpose of the surcharge is to provide a mechanism to have financial resources immediately available for improvement of lease areas and for cleanup and rehabilitation of abandoned or vacated lease sites. The department is authorized to adopt rules necessary to carry out the provisions of this subsection.

(a) Moneys in the fund that are not needed currently for cleanup and rehabilitation of abandoned or vacated lease sites shall be deposited with the Treasurer to the credit of the fund and may be invested in such manner as is provided for by statute. Interest received on such investment shall be credited to the fund.

(b) Funds within the General Inspection Trust Fund from receipts from the surcharge established in this section shall be disbursed for the following purposes and no others:

1. Administrative expenses, personnel expenses, and equipment costs of the department related to the improvement of lease areas, the cleanup and rehabilitation of abandoned or vacated aquaculture lease sites, and the enforcement of provisions of this section.

2. All costs involved in the improvement of lease areas and the cleanup and rehabilitation of abandoned or vacated lease sites.

3. All costs and damages which are the proximate results of lease abandonment or vacation.

4. Reward payments made pursuant to s. 597.0045.

The department shall recover to the use of the fund from the person or persons abandoning or vacating the lease, jointly and severally, all sums owed or expended from the fund.

(8) CULTIVATION REQUIREMENTS.—

(a) Effective cultivation shall consist of the growing of the oysters or clams in a density suitable for commercial harvesting over the amount of bottom prescribed by law. This commercial density shall be accomplished by the planting of seed oysters, shell, and cultch of various descriptions. The department may stipulate in each individual lease contract the types, shape, depth, size, and height of cultch materials on lease bottoms according to the individual shape, depth, location, and type of bottom of the proposed lease.

Each lessee leasing lands under the provisions of this section or s. 253.71 shall begin, within 1 year after the date of such lease, bona fide cultivation of the same, and shall, by the end of the second year after the commencement of such lease, have placed under cultivation at least one-half of the leased area and shall each year thereafter place in cultivation at least one-fourth of the leased area until the whole, suitable for bedding of oysters or clams, shall have been put in cultivation. The cultivation requirements for perpetuity leases granted pursuant to chapter 370 prior to 1985 under previously existing law shall comply with the conditions stated in the lease agreement, and the lessee or grantee is authorized to plant the leased or granted submerged land in both oysters and clams.

(b) These stipulations apply to all leases granted after the effective date of this section. All leases existing prior to the effective date of this section will operate under the law that was in effect when the leases were granted.

(c) When evidence is gathered by the department and such evidence conclusively shows a lack of effective cultivation, the department may revoke leases and return the bottoms in question to the public domain.

(d) The department has the authority to adopt rules pertaining to the water column over shellfish leases. All cultch materials in place 6 months after the formal adoption and publication of rules establishing standards for cultch materials on shellfish leases that do not comply with such rules may be declared a nuisance by the department. The department has the authority to direct the lessee to remove such cultch in violation of this section. The department may cancel a lease upon the refusal by the lessee violating such rules to remove unlawful cultch materials, and all improvements, cultch, marketable oysters, and shell shall become the property of the state. The department has the authority to retain, dispose of, or remove such materials in the best interest of the state.

(9) LEASES TRANSFERABLE, ETC.—The leases in chapters 253 and 370 shall be inheritable and transferable, in whole or in part, and shall also be subject to mortgage, pledge, or hypothecation and shall be subject to seizure and sale for debts as any other property, rights, and credits in this state, and this provision shall also apply to all buildings, betterments, and improvements thereon. Leases granted under this section cannot be transferred, by sale or barter, in whole or in part, without the written, express approval of the department, and such a transferee shall pay a \$50 transfer fee before department approval may be given. Leases inherited or transferred will be valid only upon receipt of the transfer fee and approval by the department. The department shall keep proper indexes so that all original leases and all subsequent changes and transfers can be easily and accurately ascertained.

(10) CANCELLATION OF LEASES TO NATURAL REEFS OR BEDS.—Any person, within 6 months after the execution of any lease, may file a petition with the department for the purpose of determining whether a natural oyster or clam reef or bed having an area of not less than 100 square yards existed within the leased area on the date of the lease, with sufficient natural or maternal oysters or clams thereon (not including coon oysters) to

have constituted a stratum sufficient to have been resorted to by the public generally for the purpose of gathering the same to sell for a livelihood. The petition shall be in writing addressed to the department, verified under oath, stating the location and approximate area of the natural reef or bed and the claim or interest of the petitioner therein and requesting the cancellation of the lease to the natural reef or bed. A petition may not be considered unless it is accompanied by a deposit of \$500 to defray the expense of the department's investigation of the matter. Upon receipt of such petition, the department shall cause an investigation to be made into the truth of the allegations of the petition, and, if found untrue, the \$500 deposit shall be retained by the department to defray the expense of the investigation, but should the allegations of the petition be found true and the leased premises to contain a natural oyster or clam reef or bed, as described in this subsection, the \$500 deposit shall be returned to the petitioner and the costs and expenses of the investigation taxed against the lessee and the lease canceled to the extent of the natural reef or bed and the same shall be marked with buoys and stakes and notices placed thereon showing the same to be a public reef or bed, the cost of the markers and notices to be taxed against the lessee.

(11) WHEN NATURAL REEFS OR BEDS MAY BE INCLUDED IN LEASE.—

(a) When an application for a submerged land lease for cultivating shellfish is filed, and when a resource survey of such lands identifies natural oyster or clam reefs or beds, the department shall determine if such reefs and beds are to be included in the leased area. The department, if it deems it to be in the best interest of the state, may include such natural reefs or beds in a lease. In those cases where a natural area is included in a lease, the department shall fix a reasonable value on the same, to be paid by the applicant for lease of such submerged land. No natural reefs shall be included in any shellfish or aquaculture lease granted in Franklin County.

(b) The department shall determine and settle all disputes as to boundaries between lessees. The department shall, in all cases, determine whether a particular submerged land area contains a natural reef or bed or whether it is suitable for raising oysters or clams.

(12) FRANKLIN COUNTY LEASES.—On and after the effective date of this section, the only leases available in Franklin County shall be those issued pursuant to ss. 253.67-253.75; chapter 370 leases shall no longer be available. The department shall require in the lease agreement such restrictions as it deems necessary to protect the environment, the existing leaseholders, and public fishery.

(13) TRESPASS ON LEASED BEDS; PROTECTION OF LEASE AREAS.—

(a) Any person who willfully takes oysters, shells, cultch, or clams bedded or planted by a licensee under this chapter, or grantee under the provisions of heretofore existing laws, or riparian owner who may have heretofore planted the same on his or her riparian bottoms, or any oysters or clams deposited by anyone making up a cargo for market, or who willfully carries or attempts to carry away the same without permission of the owner thereof,

or who willfully or knowingly removes, breaks off, destroys, or otherwise injures or alters any stakes, bounds, monuments, buoys, notices, or other designations of any natural oyster or clam reefs or beds or private bedding or propagating grounds, or who willfully injures, destroys, or removes any other protection around any oyster or clam reefs or beds, or who willfully moves any bedding ground stakes, buoys, marks, or designations placed by the department, commits a violation of this section.

(b) Harvesting shellfish is prohibited within a distance of 25 feet outside lawfully marked lease boundaries or within setback and access corridors within specifically designated high-density aquaculture lease areas and aquaculture use zones.

(14) SHELLFISH DEVELOPMENT.—

(a) The department shall improve, enlarge, and protect the natural oyster and clam reefs and beds of this state to the extent it may deem advisable and the means at its disposal will permit.

(b) The Fish and Wildlife Conservation Commission shall, to the same extent, assist in protecting shellfish aquaculture products produced on leased or granted reefs and beds.

(c) The department, in cooperation with the commission, shall provide the Legislature with recommendations as needed for the development and the proper protection of the rights of the state and private holders therein with respect to the oyster and clam business.

(15) SPECIAL ACTIVITY LICENSES.—The department is authorized to issue special activity licenses, in accordance with s. 597.020, to permit the harvest or cultivation of oysters, clams, mussels, and crabs.

(16) STAKING OFF WATER BOTTOMS OR BEDDING OYSTERS WITHOUT OBTAINING LEASE.—Any person staking off the water bottoms of this state, or bedding oysters on the bottoms of the waters of this state, without previously leasing same as required by law commits a violation of this section, and shall acquire no rights by reason of such staking off. This provision does not apply to grants heretofore made under the provisions of any heretofore existing laws or to artificial beds made heretofore by a riparian owner or his or her grantees on the owner's riparian bottoms.

(17) SHELLFISH HARVESTING SEASONS; SPECIAL PROVISIONS RELATING TO APALACHICOLA BAY.—

(a) The Fish and Wildlife Conservation Commission shall by rule set the noncultured shellfish harvesting seasons in Apalachicola Bay.

(b) If the commission changes the harvesting seasons by rule as set forth in this subsection, for 3 years after the new rule takes effect, the commission, in cooperation with the department, shall monitor the impacts of the new harvesting schedule on the bay and on local shellfish harvesters to determine whether the new harvesting schedule should be discontinued, retained, or modified. In monitoring the new schedule and in preparing its report, the following information shall be considered:

1. Whether the bay benefits ecologically from the new harvesting schedule.
2. Whether the new harvesting schedule enhances the enforcement of shellfish harvesting laws in the bay.
3. Whether the new harvesting schedule enhances natural shellfish production, oyster relay and planting programs, and shell planting programs in the bay.
4. Whether the new harvesting schedule has more than a short-term adverse economic impact, if any, on local shellfish harvesters.

(18) REMOVING OYSTERS, CLAMS, OR MUSSELS FROM NATURAL REEFS; LICENSES, ETC.; PENALTY.—

(a) It is unlawful to use a dredge or any means or implement other than hand tongs in removing oysters from the natural or artificial state reefs or beds. This restriction shall apply to all areas of Apalachicola Bay for all shellfish harvesting, excluding private grounds leased or granted by the state prior to July 1, 1989, if the lease or grant specifically authorizes the use of implements other than hand tongs for harvesting. Except in Apalachicola Bay, upon the payment of \$25 annually, for each vessel or boat using a dredge or machinery in the gathering of clams or mussels, a special activity license may be issued by the Fish and Wildlife Conservation Commission pursuant to subsection (15) or s. 370.06 for such use to such person.

(b) Approval by the department to harvest shellfish by dredge or other mechanical means from privately held shellfish leases or grants in Apalachicola Bay shall include, but not be limited to, the following conditions:

1. The use of any mechanical harvesting device other than ordinary hand tongs for taking shellfish for any purpose from public shellfish beds in Apalachicola Bay shall be unlawful.
2. The possession of any mechanical harvesting device on the waters of Apalachicola Bay from 5 p.m. until sunrise shall be unlawful.
3. Leaseholders or grantees shall notify the department no less than 48 hours prior to each day's use of a dredge or scrape in order for the department to notify the Fish and Wildlife Conservation Commission that a mechanical harvesting device will be deployed.
4. Only two dredges or scrapes per lease or grant may be possessed or operated at any time.
5. Each vessel used for the transport or deployment of a dredge or scrape shall prominently display the lease or grant number or numbers, in numerals which are at least 12 inches high and 6 inches wide, in such a manner that the lease or grant number or numbers are readily identifiable from both the air and the water.

Any violation of this paragraph or of any other statutes, rules, or conditions referenced in the lease agreement shall be considered a violation of the

license and shall result in revocation of the lease or a denial of use or future use of a mechanical harvesting device.

(c) Oysters may be harvested from natural or public or private leased or granted grounds by common hand tongs or by hand, by scuba diving, free diving, leaning from vessels, or wading. In Apalachicola Bay, this provision shall apply to all shellfish.

(19) FISHING FOR RELAYING OR TRANSPLANTING PURPOSES.—

(a) The department shall designate areas for the taking of oysters and clams to be planted on leases, grants, and public areas. Oysters, clams, and mussels may be taken for relaying or transplanting at any time during the year so long as, in the opinion of the department, the public health will not be endangered. The amount of oysters, clams, and mussels to be obtained for relaying or transplanting, the area relayed or transplanted to, and relaying or transplanting time periods shall be established in each case by the department.

(b) Application for a special activity license issued pursuant to subsection (15) for obtaining oysters, clams, or mussels for relaying from closed public shellfish harvesting areas to open areas or certified controlled purification plants or for transplanting sublegal-sized oysters, clams, or mussels must be made to the department. In return, the department may assign an area and a period of time for the oysters, clams, or mussels to be relayed or transplanted to be taken. All relaying and transplanting operations shall take place under the direction of the department.

(c) Relayed oysters, clams, or mussels shall not be subsequently harvested for any reason without written permission or public notice from the department.

(20) OYSTER AND CLAM REHABILITATION.—The board of county commissioners of the several counties may appropriate and expend such sums as it may deem proper for the purpose of planting or transplanting oysters, clams, oyster shell, clam shell, or cultch or to perform such other acts for the enhancement of the oyster and clam industries of the state, out of any sum in the county treasury not otherwise appropriated.

(21) DREDGING OF DEAD SHELLS PROHIBITED.—The dredging of dead shell deposits is prohibited in the state.

(22) COOPERATION WITH UNITED STATES FISH AND WILDLIFE SERVICE.—The department shall cooperate with the United States Fish and Wildlife Service, under existing federal laws, rules, and regulations, and is authorized to accept donations, grants, and matching funds from the Federal Government in order to carry out its oyster resource and development responsibilities. The department is further authorized to accept any and all donations including funds, oysters, or oyster shells.

(23) OYSTER AND CLAM SHELLS PROPERTY OF DEPARTMENT.—

(a) Except for oysters used directly in the half-shell trade, 50 percent of all shells from oysters and clams shucked commercially in the state shall be

and remain the property of the department when such shells are needed and required for rehabilitation projects and planting operations, in cooperation with the Fish and Wildlife Conservation Commission, when sufficient resources and facilities exist for handling and planting such shell, and when the collection and handling of such shell is practicable and useful, except that bona fide holders of leases and grants may retain 75 percent of such shell as they produce for aquacultural purposes. Storage, transportation, and planting of shells so retained by lessees and grantees shall be carried out under the conditions of the lease agreement or with the written approval of the department and shall be subject to such reasonable time limits as the department may fix. In the event of an accumulation of an excess of shells, the department is authorized to sell shells only to private growers for use in oyster or clam cultivation on bona fide leases and grants. No profit shall accrue to the department in these transactions, and shells are to be sold for the estimated moneys spent by the department to gather and stockpile the shells. Planting of shells obtained from the department by purchase shall be subject to the conditions set forth in the lease agreement or in the written approval as issued by the department. Any shells not claimed and used by private oyster cultivators 10 years after shells are gathered and stockpiled may be sold at auction to the highest bidder for any private use.

(b) Whenever the department determines that it is unfeasible to collect oyster or clam shells, the shells become the property of the producer.

(c) Whenever oyster or clam shells are owned by the department and it is not useful or feasible to use them in the rehabilitation projects, and when no leaseholder has exercised his or her option to acquire them, the department may sell such shells for the highest price obtainable. The shells thus sold may be used in any manner and for any purpose at the discretion of the purchaser.

(d) Moneys derived from the sale of shell shall be deposited in the General Inspection Trust Fund for shellfish programs.

(e) The department may publish notice, in a newspaper serving the county, of its intention to collect the oyster and clam shells and shall notify, by certified mail, each shucking establishment from which shells are to be collected. The notice shall contain the period of time the department intends to collect the shells in that county and the collection purpose.

(24) OYSTER CULTURE.—The department, in cooperation with the Fish and Wildlife Conservation Commission and the Department of Environmental Protection, shall protect all clam beds, oyster beds, shellfish grounds, and oyster reefs from damage or destruction resulting from improper cultivation, propagation, planting, or harvesting and control the pollution of the waters over or surrounding beds, grounds, or reefs, and to this end the Department of Health is authorized and directed to lend its cooperation to the department, to make available its laboratory testing facilities and apparatus.

(25) REQUIREMENTS FOR OYSTER OR CLAM VESSELS.—

(a) All vessels used for the harvesting, gathering, or transporting of oysters or clams for commercial purposes shall be constructed and maintained to prevent contamination or deterioration of shellfish. To this end, all such vessels shall be provided with false bottoms and bulkheads fore and aft to prevent onboard shellfish from coming in contact with any bilge water. No dogs or other animals shall be allowed at any time on vessels used to harvest or transport shellfish. A violation of any provision of this subsection shall result in at least the revocation of the violator's license.

(b) For the purpose of this subsection, "harvesting, gathering, or transporting of oysters or clams for commercial purposes" means to harvest, gather, or transport oysters or clams with the intent to sell and shall apply to a quantity of two or more bags of oysters per vessel or more than one 5-gallon bucket of unshucked hard clams per person or more than two 5-gallon buckets of unshucked hard clams per vessel.

Section 32. Section 370.071, Florida Statutes, is transferred, renumbered as section 597.020, Florida Statutes, and amended to read:

597.020 ~~370.071~~ Shellfish processors; regulation.—

(1) ~~The department of Agriculture and Consumer Services, hereinafter referred to as department,~~ is authorized to adopt by rule regulations, specifications, and codes relating to sanitary practices for catching, cultivating, handling, processing, packaging, preserving, canning, smoking, and storing of oysters, clams, mussels, scallops, and crabs. The department is also authorized to license shellfish processors who handle aquaculture facilities used to culture oysters, clams, mussels, scallops, and crabs when such activities relate to quality control, sanitary, and public health practices pursuant to this section ~~and chapter 500 and s. 370.06(4)~~. The department is also authorized to license or certify, for a fee determined by rule, facilities used for processing oysters, clams, mussels, scallops, and crabs, to levy an administrative fine of up to \$1,000 per violation per day or to suspend or revoke such licenses or certificates upon satisfactory evidence of any violation of rules adopted pursuant to this section, and to seize and destroy any adulterated or misbranded shellfish products as defined by rule.

(2) A shellfish processing plant certification license is required to operate any facility in which oysters, clams, mussels, scallops, or crabs are processed, including but not limited to: an oyster, clam, ~~or mussel, or scallop~~ cannery; a shell stock dealership; an oyster, clam, ~~or mussel, or scallop~~ shucking plant; an oyster, clam, ~~or mussel, or scallop~~ repacking plant; an oyster, clam, ~~or mussel, or scallop~~ controlled purification plant; or a crab or soft-shell crab processing or shedding plant.

(3) The department may suspend or revoke any shellfish processing plant certification license upon satisfactory evidence that the licensee has violated any regulation, specification, or code adopted under this section and may seize and destroy any shellfish product which is defined by rule to be an adulterated or misbranded shellfish product.

Section 33. Subsection (13) of section 190.003, Florida Statutes, is amended to read:

190.003 Definitions.—As used in this chapter, the term:

(13) “Landowner” means the owner of a freehold estate as appears by the deed record, including a trustee, a private corporation, and an owner of a condominium unit; it does not include a reversioner, remainderman, mortgagee, or any governmental entity, who shall not be counted and need not be notified of proceedings under this act. Landowner shall also mean the owner of a ground lease from a governmental entity, which leasehold interest has a remaining term, excluding all renewal options, in excess of 50 years.

Section 34. Paragraph (a) of subsection (1) of section 190.005, Florida Statutes, is amended to read:

190.005 Establishment of district.—

(1) The exclusive and uniform method for the establishment of a community development district with a size of 1,000 acres or more shall be pursuant to a rule, adopted under chapter 120 by the Florida Land and Water Adjudicatory Commission, granting a petition for the establishment of a community development district.

(a) A petition for the establishment of a community development district shall be filed by the petitioner with the Florida Land and Water Adjudicatory Commission. The petition shall contain:

1. A metes and bounds description of the external boundaries of the district. Any real property within the external boundaries of the district which is to be excluded from the district shall be specifically described, and the last known address of all owners of such real property shall be listed. The petition shall also address the impact of the proposed district on any real property within the external boundaries of the district which is to be excluded from the district.

2. The written consent to the establishment of the district by all landowners whose the owner or owners of 100 percent of the real property is to be included in the district or documentation demonstrating that the petitioner has control by deed, trust agreement, contract, or option of 100 percent of the real property to be included in the district, and when real property to be included in the district is owned by a governmental entity and subject to a ground lease as described in s. 190.003(13), the written consent by such governmental entity.

3. A designation of five persons to be the initial members of the board of supervisors, who shall serve in that office until replaced by elected members as provided in s. 190.006.

4. The proposed name of the district.

5. A map of the proposed district showing current major trunk water mains and sewer interceptors and outfalls if in existence.

6. Based upon available data, the proposed timetable for construction of the district services and the estimated cost of constructing the proposed

services. These estimates shall be submitted in good faith but shall not be binding and may be subject to change.

7. A designation of the future general distribution, location, and extent of public and private uses of land proposed for the area within the district by the future land use plan element of the effective local government comprehensive plan of which all mandatory elements have been adopted by the applicable general-purpose local government in compliance with the Local Government Comprehensive Planning and Land Development Regulation Act.

8. A statement of estimated regulatory costs in accordance with the requirements of s. 120.541.

Section 35. Subsection (10) is added to section 190.021, Florida Statutes, to read:

190.021 Taxes; non-ad valorem assessments.—

(10) LAND OWNED BY GOVERNMENTAL ENTITY.—Except as otherwise provided by law, no levy of ad valorem taxes or non-ad valorem assessments under this chapter, or chapter 170, 197 or otherwise, by a board of a district on property of a governmental entity that is subject to a ground lease as described in s. 190.003(13), shall constitute a lien or encumbrance on the underlying fee interest of such governmental entity.

Section 36. Paragraphs (b) and (i) of subsection (2) and subsection (5) of section 370.021, Florida Statutes, are amended, and paragraph (o) is added to subsection (2) of that section to read:

370.021 Administration; rules, publications, records; penalties; injunctions.—

(2) MAJOR VIOLATIONS.—In addition to the penalties provided in paragraphs (1)(a) and (b), the court shall assess additional penalties against any person, firm, or corporation convicted of major violations as follows:

(b) For a violation involving the taking or harvesting of shrimp from a nursery or other prohibited area, or any two violations within a 12-month period involving shrimping gear, minimum size (count), or season, an additional penalty of \$10 for each pound of illegal shrimp or part thereof.

(i) Permits issued to any person, firm, or corporation by the commission to take or harvest saltwater products, or any license issued pursuant to s. 370.06 or s. 370.07 may be suspended or revoked by the commission, pursuant to the provisions and procedures of s. 120.60, for any major violation prescribed in this subsection:

1. Upon a first conviction for a major violation, for up to 30 calendar days.

~~2.1.~~ Upon a second conviction for a violation which occurs within 12 months after a prior violation, for up to 90 calendar ~~60~~ days.

3.2. Upon a third conviction for a violation which occurs within 24 months after a prior violation, for up to 180 calendar days.

4.3. Upon a fourth conviction for a violation which occurs within 36 months after a prior violation, for a period of 6 months to 3 years.

(o) For a violation involving the taking or harvesting of any marine life species, as those species are defined by rule of the commission, the harvest of which is prohibited, or the taking or harvesting of such a species out of season, or with an illegal gear or chemical, or any violation involving the possession of 25 or more individual specimens of marine life species, or any combination of violations in any 3-year period involving more than 70 such specimens in the aggregate, the suspension or revocation of the license holder's marine life endorsement as provided in paragraph (i).

(5) BUYING SALTWATER PRODUCTS FROM UNLICENSED SELLER.—In addition to being subject to other penalties provided in this chapter, any violation of s. 370.06 or s. 370.07, or rules of the commission implementing s. 370.06 or s. 370.07, involving the purchase of buying saltwater products by a commercial wholesale dealer, retail dealer, or restaurant facility for public consumption from an unlicensed person, firm, or corporation, or the sale of saltwater products by an unlicensed person, firm, or corporation, shall be a major violation, and the commission may assess the following penalties:

(a) For a first violation, the commission may assess a civil penalty of up to \$2,500 and may suspend the wholesale or retail dealer's license privileges for up to 90 calendar days.

(b) For a second violation occurring within 12 months of a prior violation, the commission may assess a civil penalty of up to \$5,000 and may suspend the wholesale or retail dealer's license privileges for up to 180 calendar days.

(c) For a third or subsequent violation occurring within a 24-month period, the commission shall assess a civil penalty of \$5,000 and shall suspend the wholesale or retail dealer's license privileges for up to 24 months.

Any proceeds from the civil penalties assessed pursuant to this subsection shall be deposited into the Marine Resources Conservation Trust Fund and shall be used as follows: 40 percent for administration and processing purposes and 60 percent for law enforcement purposes.

Section 37. Subsection (8) of section 370.06, Florida Statutes, is amended, and subsection (9) is added to that section, to read:

370.06 Licenses.—

(8) COLLECTION OF LICENSES, FEES.—Unless otherwise provided by law, all license taxes or fees provided for in this chapter shall be collected by the commission or its duly authorized agents or deputies to be deposited by the Comptroller in the Marine Resources Conservation Trust Fund. The commission may by rule establish a reasonable processing fee for any free license or permit required under this chapter. The commission is authorized

to accept payment by credit card for fees, fines, and civil penalties levied pursuant to this chapter.

(9) DENIAL OF LICENSE RENEWAL OR ISSUANCE.—The commission shall deny the renewal or issuance of any saltwater products license, wholesale dealer license, or retail dealer license to anyone that has unpaid fees, civil assessments, or fines owed to the commission.

Section 38. Section 370.13, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 370.13, F.S., for present text.)

370.13 Stone crab; regulation.—

(1) FEES AND EQUITABLE RENT.—

(a) Endorsement fee.—The fee for a stone crab endorsement for the taking of stone crabs as required by rule of the Fish and Wildlife Conservation Commission, is \$125, \$25 of which must be used solely for trap retrieval under s. 370.143.

(b) Certificate fees.—

1. For each trap certificate issued by the commission under the requirements of the stone crab trap limitation program established by commission rule, there is an annual fee of \$.50 per certificate. Replacement tags for lost or damaged tags cost \$.50 each, except that tags lost in the event of a major natural disaster declared as an emergency disaster by the Governor shall be replaced for the cost of the tag as incurred by the commission.

2. Except for transfers to eligible crew members as determined according to criteria established by rule of the commission, the fee for transferring certificates is \$2 per certificate transferred to be paid by the purchaser of the certificate or certificates. The transfer fee for eligible crew members is \$1 per certificate. Payment must be made by money order or cashier's check, submitted with the certificate transfer form developed by the commission. In addition to the transfer fee, a surcharge of \$2 per certificate transferred, or 25 percent of the actual value of the transferred certificate, whichever is greater, will be assessed the first time a certificate is transferred outside the original holder's immediate family. Transfer fees and surcharges only apply to the actual number of certificates received by the purchaser. A transfer of a certificate is not effective until the commission receives a notarized copy of the bill of sale as proof of the actual value of the transferred certificate or certificates, which must also be submitted with the transfer form and payment. A transfer fee will not be assessed or required when the transfer is within a family as a result of the death or disability of the certificate owner. A surcharge will not be assessed for any transfer within an individual's immediate family.

(c) Incidental take endorsement.—The cost of an incidental take endorsement, as established by commission rule, is \$25.

(d) Equitable rent.—The commission may establish by rule an amount of equitable rent per trap certificate that may be recovered as partial compensation to the state for the enhanced access to its natural resources. In determining whether to establish such a rent and the amount thereof, the commission may consider the amount of revenues annually generated by endorsement fees, trap certificate fees, transfer fees, surcharges, replacement trap tag fees, trap retrieval fees, incidental take endorsement fees, and the continued economic viability of the commercial stone crab industry. Final approval of such a rule shall be by the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

(e) Disposition of fees, surcharges, civil penalties and fines, and equitable rent.—Endorsement fees, trap certificate fees, transfer fees, civil penalties and fines, surcharges, replacement trap tag fees, trap retrieval fees, incidental take endorsement fees, and equitable rent, if any, must be deposited in the Marine Resources Conservation Trust Fund. Not more than 50 percent of the revenues generated under this section may be used for operation and administration of the stone crab trap limitation program. The remaining revenues generated under this program are to be used for trap retrieval, management of the stone crab fishery, public education activities, evaluation of the impact of trap reductions on the stone crab fishery, and enforcement activities in support of the stone crab trap limitation program.

(f) Program to be self-supporting.—The stone crab trap limitation program is intended to be a self-supporting program funded from proceeds generated under this section.

(g) No vested rights.—The stone crab trap limitation program does not create any vested rights for endorsement or certificateholders and may be altered or terminated by the commission as necessary to protect the stone crab resource, the participants in the fishery, or the public interest.

(2) PENALTIES.—For purposes of this subsection, conviction is any disposition other than acquittal or dismissal, regardless of whether the violation was adjudicated under any state or federal law.

(a) In addition to any other penalties provided in s. 370.021, for any person, firm, or corporation who violates Rule 68B-13.010(2), F.A.C., or Rule 68B-13.011(5), (6), (7), (8), or (11), F.A.C., the following administrative penalties apply.

1. For a first violation, the commission shall assess an administrative penalty of up to \$1,000 and the stone crab endorsement under which the violation was committed may be suspended for the remainder of the current license year.

2. For a second violation that occurs within 24 months of any previous such violation, the commission shall assess an administrative penalty of up to \$2,000 and the stone crab endorsement under which the violation was committed may be suspended for 12 calendar months.

3. For a third violation that occurs within 36 months of any previous two such violations, the commission shall assess an administrative penalty of up

to \$5,000 and the stone crab endorsement under which the violation was committed may be suspended for 24 calendar months.

4. A fourth violation that occurs within 48 months of any three previous such violations, shall result in permanent revocation of all of the violator's saltwater fishing privileges, including having the commission proceed against the endorsement holder's saltwater products license in accordance with s. 370.021.

Any person assessed an administrative penalty under this paragraph shall, within 30 calendar days after notification, pay the administrative penalty to the commission, or request an administrative hearing under s. 120.569 and s. 120.57. The proceeds of all administrative penalties collected under this paragraph shall be deposited in the Marine Resource Conservation Trust Fund.

(b) It is unlawful for any person to remove the contents of another harvester's trap without the express written consent of the trap owner available for immediate inspection. Such unauthorized removal constitutes theft. Any person convicted of theft from a trap shall, in addition to the penalties specified in s. 370.021 and the provisions of this section, permanently lose all his or her saltwater fishing privileges, including saltwater products licenses, stone crab or incidental take endorsements, and all trap certificates allotted to him or her by the commission. In such cases, trap certificates and endorsements are nontransferable. In addition, any person, firm, or corporation convicted of violating the prohibitions referenced in this paragraph shall also be assessed an administrative penalty of up to \$5,000. Immediately upon receiving a citation for a violation involving theft from a trap and until adjudicated for such a violation, or if convicted of such a violation, the violator is prohibited from transferring any stone crab or lobster certificates.

(c) Any person, firm, or corporation convicted of violating commission rules that prohibit any of the following, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1. The willful molestation of any stone crab trap, line, or buoy that is the property of any licenseholder, without the permission of that licenseholder.

2. The bartering, trading, or sale, or conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates unless the action is duly authorized by the commission as provided by commission rules.

3. The making, altering, forging, counterfeiting, or reproducing of stone crab trap tags.

4. Possession of forged, counterfeit, or imitation stone crab trap tags.

5. Engaging in the commercial harvest of stone crabs during the time either of the endorsements is under suspension or revocation.

In addition, any person, firm, or corporation convicted of violating this paragraph shall also be assessed an administrative penalty of up to \$5,000, and

the incidental take endorsement and/or the stone crab endorsement under which the violation was committed may be suspended for up to 24 calendar months. Immediately upon receiving a citation involving a violation of this paragraph and until adjudicated for such a violation, or if convicted of such a violation, the person, firm, or corporation committing the violation is prohibited from transferring any stone crab certificates or endorsements.

(d) For any person, firm, or corporation convicted of fraudulently reporting the actual value of transferred stone crab certificates, the commission may automatically suspend or permanently revoke the seller's or the purchaser's stone crab endorsements. If the endorsement is permanently revoked, the commission shall also permanently deactivate the endorsement holder's stone crab certificate accounts. Whether an endorsement is suspended or revoked, the commission may also levy a fine against the holder of the endorsement of up to twice the appropriate surcharge to be paid based on the fair market value of the transferred certificates.

(e) During any period of suspension or revocation of an endorsement holder's endorsement, he or she shall remove all traps subject to that endorsement from the water within 15 days after notice provided by the commission. Failure to do so will extend the period of suspension or revocation for an additional 6 calendar months.

(f) An endorsement will not be renewed until all fees and administrative penalties imposed under this section are paid.

(3) DEPREDATION ENDORSEMENTS.—The Fish and Wildlife Conservation Commission shall issue a depredation endorsement on the saltwater products license, which shall entitle the license holder to possess and use up to 75 stone crab traps and up to 75 blue crab traps, notwithstanding any other provisions of law, for the incidental take of destructive or nuisance stone crabs or blue crabs within 1 mile of aquaculture shellfish beds. Any marine aquaculture producer as defined by s. 370.26 who raises shellfish may obtain a depredation endorsement by providing an aquaculture registration certificate to the commission. No stone crabs or blue crabs taken under this subsection may be sold or offered for sale.

Section 39. Subsection (1) of section 370.135, Florida Statutes, is amended to read:

370.135 Blue crab; regulation.—

(1) No person, firm, or corporation shall transport on the water, fish with or cause to be fished with, set, or place any trap designed for taking blue crabs unless such person, firm, or corporation is the holder of a valid saltwater products license issued pursuant to s. 370.06 and the trap has a current state number permanently attached to the buoy. The trap number shall be affixed in legible figures at least 1 inch high on each buoy used. The saltwater products license must be on board the boat, and both the license and the crabs shall be subject to inspection at all times. Only one trap number may be issued for each boat by the commission upon receipt of an application on forms prescribed by it. This subsection shall not apply to an individual fishing with no more than five traps. It is a felony of the third degree,

punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully to molest any traps, lines, or buoys, as defined herein, belonging to another without permission of the licenseholder. It is unlawful for any person to remove the contents of another harvester's trap without the express written consent of the trap owner available for immediate inspection. Such unauthorized removal constitutes theft. Any person convicted of theft from a trap shall, in addition to the penalties specified in s. 370.021 and the provisions of this section, permanently lose all his or her saltwater fishing privileges including his or her saltwater products license and blue crab endorsement. In such cases endorsements are nontransferable. In addition, any person, firm, or corporation convicted of violating this paragraph shall also be assessed an administrative penalty of up to \$5,000. Immediately upon receiving a citation for a violation involving theft from a trap and until adjudicated for such a violation, or if convicted of such a violation, the person, firm, or corporation committing the violation is prohibited from transferring any blue crab endorsements.

Section 40. Subsection (2) of section 370.14, Florida Statutes, is amended to read:

370.14 Crawfish; regulation.—

(2)(a) Each trap used for taking or attempting to take crawfish must have a trap number permanently attached to the trap and the buoy. This trap number may be issued by the Fish and Wildlife Conservation Commission upon the receipt of application by the owner of the traps and accompanied by the payment of a fee of \$100. The design of the applications and of the trap number shall be determined by the commission. Any trap or device used in taking or attempting to take crawfish, other than a trap with the trap number attached as prescribed in this paragraph, shall be seized and destroyed by the commission. The proceeds of the fees imposed by this paragraph shall be deposited and used as provided in paragraph (b). The commission may adopt ~~is authorized to promulgate rules and regulations~~ to carry out the intent of this section.

(b) Fees collected pursuant to paragraph (a) shall be deposited as follows:

1. Fifty percent of the fees collected shall be deposited in the Marine Resources Conservation Trust Fund for use in enforcing the provisions of paragraph (a) through aerial and other surveillance and trap retrieval.

2. Fifty percent of the fees collected shall be deposited as provided in s. 370.142(6) ~~s. 370.142(5)~~.

Section 41. Subsection (2) of section 370.142, Florida Statutes, is amended, to read:

370.142 Spiny lobster trap certificate program.—

(2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES; PENALTIES.—The Fish and Wildlife Conservation Commission shall establish a trap certificate program for the spiny lobster fishery of this state and shall be responsible for its administration and enforcement as follows:

(a) Transferable trap certificates.—Each holder of a saltwater products license who uses traps for taking or attempting to take spiny lobsters shall be required to have a certificate on record for each trap possessed or used therefor, except as otherwise provided in this section.

1. The Department of Environmental Protection shall initially allot such certificates to each licenseholder with a current crawfish trap number who uses traps. The number of such certificates allotted to each such licenseholder shall be based on the trap/catch coefficient established pursuant to trip ticket records generated under the provisions of s. 370.06(2)(a) over a 3-year base period ending June 30, 1991. The trap/catch coefficient shall be calculated by dividing the sum of the highest reported single license-year landings up to a maximum of 30,000 pounds for each such licenseholder during the base period by 700,000. Each such licenseholder shall then be allotted the number of certificates derived by dividing his or her highest reported single license-year landings up to a maximum of 30,000 pounds during the base period by the trap/catch coefficient. Nevertheless, no licenseholder with a current crawfish trap number shall be allotted fewer than 10 certificates. However, certificates may only be issued to individuals; therefore, all licenseholders other than individual licenseholders shall designate the individual or individuals to whom their certificates will be allotted and the number thereof to each, if more than one. After initial issuance, trap certificates are transferable on a market basis and may be transferred from one licenseholder to another for a fair market value agreed upon between the transferor and transferee. Each such transfer shall, within 72 hours thereof, be recorded on a notarized form provided for that purpose by the Fish and Wildlife Conservation Commission and hand delivered or sent by certified mail, return receipt requested, to the commission for recordkeeping purposes. In addition, in order to cover the added administrative costs of the program and to recover an equitable natural resource rent for the people of the state, a transfer fee of \$2 per certificate transferred shall be assessed against the purchasing licenseholder and sent by money order or cashier's check with the certificate transfer form. Also, in addition to the transfer fee, a surcharge of \$5 per certificate transferred or 25 percent of the actual market value, whichever is greater, given to the transferor shall be assessed the first time a certificate is transferred outside the original transferor's immediate family. No transfer of a certificate shall be effective until the commission receives the notarized transfer form and the transfer fee, including any surcharge, is paid. The commission may establish by rule an amount of equitable rent per trap certificate that shall be recovered as partial compensation to the state for the enhanced access to its natural resources. Final approval of such a rule shall be by the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund. In determining whether to establish such a rent and, if so, the amount thereof, the commission shall consider the amount of revenues annually generated by certificate fees, transfer fees, surcharges, trap license fees, and sales taxes, the demonstrated fair market value of transferred certificates, and the continued economic viability of the commercial lobster industry. The proceeds of equitable rent recovered shall be deposited in the Marine Resources Conservation Trust Fund and used by the commission for research, management, and protection of the spiny lobster fishery and habitat. A transfer fee may not be assessed or required when the transfer is within a family as a result of

the death or disability of the certificate owner. A surcharge will not be assessed for any transfer within an individual's immediate family.

2. No person, firm, corporation, or other business entity may control, directly or indirectly, more than 1.5 percent of the total available certificates in any license year.

3. The commission shall maintain records of all certificates and their transfers and shall annually provide each licenseholder with a statement of certificates held.

4. The number of trap tags issued annually to each licenseholder shall not exceed the number of certificates held by the licenseholder at the time of issuance, and such tags and a statement of certificates held shall be issued simultaneously.

5. Beginning July 1, 2003, and applicable to the 2003-2004 lobster season and thereafter, it is unlawful for any person to lease lobster trap tags or certificates.

(b) Trap tags.—Each trap used to take or attempt to take spiny lobsters in state waters or adjacent federal waters shall, in addition to the crawfish trap number required by s. 370.14(2), have affixed thereto an annual trap tag issued by the commission. Each such tag shall be made of durable plastic or similar material and shall, based on the number of certificates held, have stamped thereon the owner's license number. To facilitate enforcement and recordkeeping, such tags shall be issued each year in a color different from that of each of the previous 3 years. The annual certificate fee shall be \$1 per certificate. Replacement tags for lost or damaged tags may be obtained as provided by rule of the commission.

(c) Prohibitions; penalties.—

1. It is unlawful for a person to possess or use a spiny lobster trap in or on state waters or adjacent federal waters without having affixed thereto the trap tag required by this section. It is unlawful for a person to possess or use any other gear or device designed to attract and enclose or otherwise aid in the taking of spiny lobster by trapping that is not a trap as defined in rule ~~68B-24.006(2)~~ ~~46-24.006(2)~~, Florida Administrative Code.

2. It is unlawful for a person to possess or use spiny lobster trap tags without having the necessary number of certificates on record as required by this section.

3. It is unlawful for any person to remove the contents of another harvester's trap without the express written consent of the trap owner available for immediate inspection. Such unauthorized removal constitutes theft. Any person convicted of theft from a trap shall, in addition to the penalties specified in ss. 370.021 and 370.14 and the provisions of this section, permanently lose all his or her saltwater fishing privileges, including his or her saltwater products license, crawfish endorsement, and all trap certificates allotted to him or her through this program. In such cases, trap certificates and endorsements are nontransferable. In addition, any person, firm, or

corporation convicted of violating this paragraph shall also be assessed an administrative penalty of up to \$5,000. Immediately upon receiving a citation for a violation involving theft from a trap and until adjudicated for such a violation or, if convicted of such a violation, the person, firm, or corporation committing the violation is prohibited from transferring any crawfish trap certificates and endorsements.

4.3. In addition to any other penalties provided in s. 370.021, a commercial harvester, as defined by rule 68B-24.002(1) ~~46-24.002(1)~~, Florida Administrative Code, who violates the provisions of this section, or the provisions relating to traps of chapter 68B-24 ~~46-24~~, Florida Administrative Code, shall be punished as follows:

a. If the first violation is for violation of subparagraph 1. or subparagraph 2., the commission shall assess an additional civil penalty of up to \$1,000 and the crawfish trap number issued pursuant to s. 370.14(2) or (6) may be suspended for the remainder of the current license year. For all other first violations, the commission shall assess an additional civil penalty of up to \$500.

b. For a second violation of subparagraph 1. or subparagraph 2. which occurs within 24 months of any previous such violation, the commission shall assess an additional civil penalty of up to \$2,000 and the crawfish trap number issued pursuant to s. 370.14(2) or (6) may be suspended for the remainder of the current license year.

c. For a third or subsequent violation of subparagraph 1., ~~or subparagraph 2., or subparagraph 3.~~ which occurs within 36 months of any previous two such violations, the commission shall assess an additional civil penalty of up to \$5,000 and may suspend the crawfish trap number issued pursuant to s. 370.14(2) or (6) for a period of up to 24 months or may revoke the crawfish trap number and, if revoking the crawfish trap number, may also proceed against the licenseholder's saltwater products license in accordance with the provisions of s. 370.021(2)(i).

d. Any person assessed an additional civil penalty pursuant to this section shall within 30 calendar days after notification:

(I) Pay the civil penalty to the commission; or

(II) Request an administrative hearing pursuant to the provisions of s. 120.60.

e. The commission shall suspend the crawfish trap number issued pursuant to s. 370.14(2) or (6) for any person failing to comply with the provisions of sub-subparagraph d.

5.4.a. It is unlawful for any person to make, alter, forge, counterfeit, or reproduce a spiny lobster trap tag or certificate.

b. It is unlawful for any person to knowingly have in his or her possession a forged, counterfeit, or imitation spiny lobster trap tag or certificate.

c. It is unlawful for any person to barter, trade, sell, supply, agree to supply, aid in supplying, or give away a spiny lobster trap tag or certificate or to conspire to barter, trade, sell, supply, aid in supplying, or give away a spiny lobster trap tag or certificate unless such action is duly authorized by the commission as provided in this chapter or in the rules of the commission.

6.5.a. Any person who violates the provisions of subparagraph 5. ~~subparagraph 4.~~, or any person who engages in the commercial harvest, trapping, or possession of spiny lobster without a crawfish trap number as required by s. 370.14(2) or (6) or during any period while such crawfish trap number is under suspension or revocation, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. In addition to any penalty imposed pursuant to sub-subparagraph a., the commission shall levy a fine of up to twice the amount of the appropriate surcharge to be paid on the fair market value of the transferred certificates, as provided in subparagraph (a)1., on any person who violates the provisions of sub-subparagraph 5.c ~~4.e.~~

7.6. Any certificates for which the annual certificate fee is not paid for a period of 3 years shall be considered abandoned and shall revert to the commission. During any period of trap reduction, any certificates reverting to the commission shall become permanently unavailable and be considered in that amount to be reduced during the next license-year period. Otherwise, any certificates that revert to the commission are to be reallocated in such manner as provided by the commission.

8.7. The proceeds of all civil penalties collected pursuant to subparagraph 4. ~~subparagraph 3.~~ and all fines collected pursuant to sub-subparagraph 6.b. ~~sub-subparagraph 5.b.~~ shall be deposited into the Marine Resources Conservation Trust Fund.

9.8. All traps shall be removed from the water during any period of suspension or revocation.

(d) No vested rights.—The trap certificate program shall not create vested rights in licenseholders whatsoever and may be altered or terminated as necessary to protect the spiny lobster resource, the participants in the fishery, or the public interest.

Section 42. Subsections (2), (3), and (4) of section 370.143, Florida Statutes, are amended to read:

370.143 Retrieval of lobster and stone crab traps during closed season; commission authority; fees.—

(2) A retrieval fee of \$10 per trap retrieved shall be assessed trap owners. However, for persons holding a stone crab endorsement issued under rule of the Fish and Wildlife Conservation Commission, the retrieval fee shall be waived for the first five traps retrieved. Traps recovered under this program shall become the property of the commission or its contract agent, as determined by the commission, and shall be either destroyed or resold to the

original owner. Revenue from retrieval fees shall be deposited in the Marine Resources Conservation Trust Fund and used solely for operation of the trap retrieval program.

(3) Payment of all the assessed retrieval fees ~~fee~~ shall be required prior to renewal of the trap owner's saltwater products license and stone crab and or crawfish endorsements trap number as a condition of number renewal. Retrieval fees assessed under this program shall stand in lieu of other penalties imposed for such trap violations.

(4) In the event of a major natural disaster in an area declared by the Governor to be a disaster emergency area, such as a hurricane or major storm causing massive trap losses, the commission shall waive the trap retrieval fee.

Section 43. Subsection (4) of section 370.15, Florida Statutes, is amended to read:

370.15 Shrimp; regulation.—

(4) SHRIMP TRAWLING.—All persons, firms, and corporations desiring to trawl for shrimp within areas in which trawling is permitted shall ~~have a noncommercial trawl or net registration or~~ purchase a saltwater products license issued to a valid boat registration or in the name of an individual pursuant to s. 370.06. The saltwater products license shall remain on board at all times and is subject to immediate revocation upon conviction for violation of this section or when it becomes apparent that the best interests of saltwater conservation will be served by such action. ~~A noncommercial trawl or net registration must be issued to each net used to take shrimp for noncommercial purposes. Such net or trawl shall have a corkline measurement of 16 feet or less. Possession of shrimp under a noncommercial registration is limited to 25 pounds while on the water.~~ Due to the varied habitats and types of bottoms and hydrographic conditions embraced by the open fishing area, the commission shall have the authority to specify and regulate the types of gear that may be used in the different sections of the open areas.

Section 44. Subsections (4) and (5) of section 370.153, Florida Statutes, are amended to read:

370.153 Regulation of shrimp fishing; Clay, Duval, Nassau, Putnam, Flagler, and St. Johns Counties.—

(4) DEAD SHRIMP PRODUCTION.—Any person may operate as a commercial dead shrimp producer provided that:

(a) A dead shrimp production permit is procured from the Fish and Wildlife Conservation Commission upon the receipt by the commission of a properly filled out and approved application by a person intending to use a boat, not to exceed 35 feet in length in Duval, St. Johns, Putnam, and Clay Counties, and not to exceed 45 feet in length in Nassau County, for dead shrimp production within the inland waters of Nassau County and the inland waters of the St. Johns River of Duval, Putnam, St. Johns, Flagler, or Clay Counties, which permit shall cost \$250 and shall be required for each

vessel used for dead shrimp production. The design of the application and permit shall be determined by the Fish and Wildlife Conservation Commission. The proceeds of the fees imposed by this paragraph shall be deposited into the account of the Marine Resources Conservation Trust Fund to be used by the commission for the purpose of enforcement of marine resource laws.

(b) All commercial trawling in the St. Johns River proper shall be restricted to the area north of the Acosta Bridge in Jacksonville and at least 100 yards from the nearest shoreline.

(c) All commercial shrimping activities shall be allowed during daylight hours from Tuesday through Friday each week.

(d) No person holding a dead shrimp production permit issued pursuant to this subsection shall simultaneously hold a permit for noncommercial trawling under the provisions of subsection (5). The number of permits issued by the commission for commercial trawling or dead shrimp production in any one year shall be limited to those active the number issued in the base year, 1976, and renewed annually since 1976. All permits for dead shrimp production issued pursuant to this section shall be inheritable or transferable to an immediate family member and annually renewable by the holder thereof. Such inheritance or transfer shall be valid upon being registered with the commission. Each permit ~~All permits~~ not renewed shall expire and shall not be renewed under any circumstances.

(e) It is illegal for any person to sell dead shrimp caught in the inland waters of Nassau, Duval, Clay, Putnam, and St. Johns Counties, unless the seller is in possession of a dead shrimp production license issued pursuant to this subsection.

(f) It is illegal for any person to purchase shrimp for consumption or bait from any seller (with respect to shrimp caught in the inland waters of Nassau, Duval, Clay, Putnam, and St. Johns Counties (St. Johns River)) who does not produce his or her dead shrimp production license prior to the sale of the shrimp.

(g) In addition to any other penalties provided for in this section, any person who violates the provisions of this subsection shall have his or her license revoked by the commission.

(h) The commission shall rename the Dead Shrimp Production License as the Commercial Food Shrimp Production License.

(5) NONCOMMERCIAL TRAWLING.—If noncommercial trawling is authorized by the Fish and Wildlife Conservation Commission, any person may trawl for harvest shrimp in the St. Johns River for his or her own use as food ~~and may trawl for such shrimp~~ under the following conditions:

(a) Each person who desires to trawl for shrimp for use as food shall obtain a noncommercial trawling permit from the local office of the Fish and Wildlife Conservation Commission upon filling out an application on a form prescribed by the commission and upon paying a fee for the permit, which shall cost \$50.

(b) All trawling shall be restricted to the confines of the St. Johns River proper in the area north of the Acosta Bridge in Jacksonville and at least 100 yards from the nearest shoreline.

(c) No shrimp caught by a person licensed under the provisions of this subsection may be sold or offered for sale.

Section 45. Section 370.25, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 370.25, F.S., for present text.)

370.25 Artificial reef program; grants and financial and technical assistance to local governments.—

(1) An artificial reef program is created within the Fish and Wildlife Conservation Commission to enhance saltwater opportunities and to promote proper management of fisheries resources associated with artificial reefs for the public interest. Under the program, the commission may provide grants and financial and technical assistance to coastal local governments and nonprofit corporations qualified under s. 501(c)(3) of the Internal Revenue Code for the siting and development of artificial reefs as well as for monitoring and evaluating their recreational, economic, and biological effectiveness. The program may be funded from state, federal, and private contributions.

(2) The commission may adopt by rule procedures for submitting an application for financial assistance and criteria for allocating available funds.

(3) The commission may adopt by rule criteria for siting, constructing, managing, and evaluating the effectiveness of artificial reefs placed in state or adjacent federal waters, consistent with this section.

(4) The commission may adopt by rule criteria for determining the eligibility of nonprofit corporations qualified under s. 501(c)(3) of the Internal Revenue Code to apply for and receive funds available for artificial reef development or evaluation. The criteria must include, but are not limited to, the following:

(a) The corporation must show proof that it is a nonprofit corporation qualified under s. 501(c)(3) of the Internal Revenue Code.

(b) The corporation must state in its articles of incorporation or bylaws that one of its objectives is the development or monitoring of artificial reefs.

(5) The commission's artificial reef program shall track all artificial-reef-development activities statewide, and maintain a computer database of these activities for the public interest and to facilitate long-range planning and coordination within the commission and among local governments.

(6) It is unlawful for any person to:

(a) Place artificial-reef-construction materials in state water outside zones permitted under the terms and conditions defined in any artificial-reef permits issued by the United States Army Corps of Engineers or by the Fish and Wildlife Conservation Commission.

(b) Store, possess, or transport on or across state waters any materials reasonably suited for artificial-reef construction and stored in a manner providing ready access for use and placement as an artificial reef, unless a valid cargo manifest issued by the commission or a commission-certified inspector is onboard the transporting vessel. The manifest will serve as authorization to use a valid permitted site or land-based staging area, will validate that the type of artificial-reef construction material being transported is permissible for use at the permitted site, and will describe and quantify the artificial-reef material being transported. The manifest will also include the latitude and longitude coordinates of the proposed deployment location, the valid permit number, and a copy of the permit conditions for the permitted site. The manifest must be available for inspection by any authorized law enforcement officer or commission employee.

(7)(a) An initial violation of subsection (6) is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A subsequent violation of subsection (6) which is committed within 12 months after a previous violation of that subsection is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If a violation of subsection (6) occurs, a law enforcement officer may terminate a vessel's voyage and order the vessel operator to return immediately to port. Failure or refusal to comply with an order to return to port constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The vessel operator must immediately dispose of the materials on shore according to applicable waste disposal laws.

(c) If, at the time of the violation, the vessel that is involved in the violation:

1. Is moored at a land-based facility, the registered owner of the vessel is responsible for the violation.

2. Is underway or anchored, the captain or operator of the vessel and the registered owner of the vessel are jointly responsible for the violation.

(d) In addition to the penalties imposed in this subsection, the commission shall assess civil penalties of up to \$5,000 against any person convicted of violating subsection (6) and may seek the suspension or revocation of the vessel registration, existing reef-construction permits, or other state marine licenses held by the violator. For the purposes of this section, conviction includes any judicial disposition other than acquittal or dismissal.

Section 46. (1) The sum of \$97,049 is appropriated from the commercial revenues in the Marine Resources Conservation Trust Fund to the Fish and Wildlife Conservation Commission for fiscal year 2000-2001, for four career service positions that are authorized for the commission to implement the stone crab trap limitation program. This appropriation shall be made after

funds have been distributed pursuant to section 328.76(2)(b), Florida Statutes.

(2) The sum of \$254,408 is appropriated from the commercial revenues in the Marine Resources Conservation Trust Fund to the Fish and Wildlife Conservation Commission for program operation, plus the sum of \$130,000 to cover the cost of stone crab trap tags in fiscal year 2000-2001, in order to implement the stone crab trap limitation program in fiscal year 2001-2002. This appropriation shall be made after funds have been distributed pursuant to section 328.76(2)(b), Florida Statutes.

Section 47. Subsection (1) of section 190.012, Florida Statutes, is amended to read:

190.012 Special powers; public improvements and community facilities.—The district shall have, and the board may exercise, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any area included therein, any or all of the following special powers relating to public improvements and community facilities authorized by this act:

(1) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems, facilities, and basic infrastructures for the following:

(a) Water management and control for the lands within the district and to connect some or any of such facilities with roads and bridges.

(b) Water supply, sewer, and wastewater management, reclamation, and reuse or any combination thereof, and to construct and operate connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or ways, and to dispose of any effluent, residue, or other byproducts of such system or sewer system.

(c) Bridges or culverts that may be needed across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over levees and embankments, and to construct any and all of such works and improvements across, through, or over any public right-of-way, highway, grade, fill, or cut.

(d)1. District roads equal to or exceeding the specifications of the county in which such district roads are located, and street lights.

2. Buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, and related signage.

(e) Investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the district under the supervision or direction of a competent governmental authority unless the covered costs benefit any person who is a landowner within the district and who caused or contributed to the contamination.

(f)(e) Conservation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property.

(g)(f) Any other project within or without the boundaries of a district when a local government issued a development order pursuant to s. 380.06 or s. 380.061 approving or expressly requiring the construction or funding of the project by the district, or when the project is the subject of an agreement between the district and a governmental entity and is consistent with the local government comprehensive plan of the local government within which the project is to be located.

Section 48. Notwithstanding any other law, the Legislature intends that this act represent its full and total intent with respect to legislation dealing with the same subject matter as this act at the same legislative session.

Section 49. This act shall take effect July 1, 2000.

Approved by the Governor June 26, 2000.

Filed in Office Secretary of State June 26, 2000.