

## House Bill No. 665

An act relating to the Florida Statutes; amending ss. 470.016, 471.025, 472.001, 472.003, 472.005, 472.011, 472.015, 472.021, 472.025, 472.027, 472.031, 472.037, 476.024, 494.0017, 498.025, 499.015, 499.03, 499.05, 501.34, 514.0231, 527.01, 527.02, 538.11, 550.6305, 550.904, 550.912, 553.381, 553.507, 553.902, 569.11, 570.21, 576.045, 589.065, 597.003, 597.0041, 607.1901, 617.1622, 620.8101, 620.9901, 626.112, 626.621, 626.6215, 626.797, 626.844, 626.8734, 626.909, 626.9911, 626.99275, 627.031, 627.062, 627.357, 627.481, 627.6487, 627.6699, 627.6735, 627.736, 627.9403, 627.9407, 627.94072, 627.944, 628.909, 631.718, and 631.911, F.S.; and repealing ss. 489.1136(1)(g), 499.005(26), 550.2633(3) and (4), 624.408(1)(b)1., and 627.0661, F.S., pursuant to s. 11.242, F.S.; deleting provisions which have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; improving the clarity of the statutes and facilitating their correct interpretation; and confirming the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process.

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

Section 1. Subsection (1) of section 470.016, Florida Statutes, is amended to read:

470.016 Inactive status.—

(1) A funeral director or embalmer license that has become inactive may be reactivated under s. 470.015 upon application to the department. The board shall prescribe by rule continuing education requirements as a condition of reactivating a license. The continuing education requirements for reactivating a license may not exceed 12 classroom hours, and the board may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis, in addition to a board-approved course on communicable diseases, for each year the license was inactive.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation.

Section 2. Subsections (1) and (2) of section 471.025, Florida Statutes, are amended to read:

471.025 Seals.—

(1) The board shall prescribe, by rule, a form of seal to be used by registrants holding valid certificates of registration. Each registrant shall obtain an impression-type metal seal in the form aforesaid and may, in addition,

register his or her seal electronically in accordance with ss. 668.001-668.006 ~~282.70-282.75~~. All final drawings, specifications, plans, reports, or documents prepared or issued by the registrant and being filed for public record and all final bid documents provided to the owner or the owner's representative shall be signed by the registrant, dated, and stamped with said seal. Such signature, date, and seal shall be evidence of the authenticity of that to which they are affixed. Drawings, specifications, plans, reports, final bid documents, or documents prepared or issued by a registrant may be transmitted electronically and may be signed by the registrant, dated, and stamped electronically with said seal in accordance with ss. 668.001-668.006 ~~282.70-282.75~~.

(2) It is unlawful for any person to stamp, seal, or digitally sign any document with a seal or digital signature after his or her certificate of registration has expired or been revoked or suspended, unless such certificate of registration has been reinstated or reissued. When the certificate of registration of a registrant has been revoked or suspended by the board, it shall be mandatory that the registrant, within a period of 30 days after the revocation or suspension has become effective, surrender his or her seal to the secretary of the board and confirm to the secretary the cancellation of the registrant's digital signature in accordance with ss. 668.001-668.006 ~~282.70-282.75~~. In the event the registrant's certificate has been suspended for a period of time, his or her seal shall be returned to him or her upon expiration of the suspension period.

Reviser's note.—Amended to conform to the redesignation of ss. 282.70-282.75 as ss. 668.001-668.006 by the reviser incident to compiling the Florida Statutes 2000.

Section 3. Section 472.001, Florida Statutes, is amended to read:

472.001 Purpose.—The Legislature deems it necessary to regulate surveyors and mappers as provided in ss. 472.001-472.037 ~~472.001-472.041~~.

Reviser's note.—Amended to conform to the repeal of ss. 472.039 and 472.041 by s. 8, ch. 2000-332, Laws of Florida.

Section 4. Section 472.003, Florida Statutes, is amended to read:

472.003 Persons not affected by ss. 472.001-472.037 ~~472.001-472.041~~.—Sections 472.001-472.037 ~~472.001-472.041~~ do not apply to:

(1) Any surveyor and mapper working as a salaried employee of the United States Government when engaged in work solely for the United States Government.

(2) A registered professional engineer who takes or contracts for professional surveying and mapping services incidental to her or his practice of engineering and who delegates such surveying and mapping services to a registered professional surveyor and mapper qualified within her or his firm or contracts for such professional surveying and mapping services to be performed by others who are registered professional surveyors and mappers under the provisions of ss. 472.001-472.037 ~~472.001-472.041~~.

(3) The following persons when performing construction layout from boundary, horizontal, and vertical controls that have been established by a registered professional surveyor and mapper:

(a) Contractors performing work on bridges, roads, streets, highways, or railroads, or utilities and services incidental thereto, or employees who are subordinates of such contractors provided that the employee does not hold herself or himself out for hire or engage in such contracting except as an employee;

(b) Certified or registered contractors licensed pursuant to part I of chapter 489 or employees who are subordinates of such contractors provided that the employee does not hold herself or himself out for hire or engage in contracting except as an employee; and

(c) Registered professional engineers licensed pursuant to chapter 471 and employees of a firm, corporation, or partnership who are the subordinates of the registered professional engineer in responsible charge.

(4) Persons employed by county property appraisers, as defined at s. 192.001(3), and persons employed by the Department of Revenue, to prepare maps for property appraisal purposes only, but only to the extent that they perform mapping services which do not include any surveying activities as described in s. 472.005(4)(a) and (b).

Reviser's note.—Amended to conform to the repeal of ss. 472.039 and 472.041 by s. 8, ch. 2000-332, Laws of Florida.

Section 5. Section 472.005, Florida Statutes, is amended to read:

472.005 Definitions.—As used in ss. ~~472.001-472.037~~ 472.001-472.041:

(1) “Board” means the Board of Professional Surveyors and Mappers.

(2) “Department” means the Department of Business and Professional Regulation.

(3) “Surveyor and mapper” includes the term “professional surveyor and mapper” and means a person who is registered to engage in the practice of surveying and mapping under ss. ~~472.001-472.037~~ 472.001-472.041. For the purposes of this statute, a surveyor and mapper means a person who determines and displays the facts of size, shape, topography, tidal datum planes, legal or geodetic location or relation, and orientation of improved or unimproved real property through direct measurement or from certifiable measurement through accepted photogrammetric procedures.

(4)(a) “Practice of surveying and mapping” means, among other things, any professional service or work, the adequate performance of which involves the application of special knowledge of the principles of mathematics, the related physical and applied sciences, and the relevant requirements of law for adequate evidence of the act of measuring, locating, establishing, or reestablishing lines, angles, elevations, natural and manmade features in the air, on the surface and immediate subsurface of the earth, within underground workings, and on the beds or surface of bodies of water, for the

purpose of determining, establishing, describing, displaying, or interpreting the facts of size, shape, topography, tidal datum planes, legal or geodetic location or relocation, and orientation of improved or unimproved real property and appurtenances thereto, including acreage and condominiums.

(b) The practice of surveying and mapping also includes, but is not limited to, photogrammetric control; the monumentation and remonumentation of property boundaries and subdivisions; the measurement of and preparation of plans showing existing improvements after construction; the layout of proposed improvements; the preparation of descriptions for use in legal instruments of conveyance of real property and property rights; the preparation of subdivision planning maps and record plats, as provided for in chapter 177; the determination of, but not the design of, grades and elevations of roads and land in connection with subdivisions or divisions of land; and the creation and perpetuation of alignments related to maps, record plats, field note records, reports, property descriptions, and plans and drawings that represent them.

(5) The term “surveyor and mapper intern” includes the term “surveyor-mapper-in-training” and means a person who complies with the requirements provided by ss. ~~472.001-472.037~~ 472.001-472.041 and who has passed an examination as provided by rules adopted by the board.

(6) The term “responsible charge” means direct control and personal supervision of surveying and mapping work, but does not include experience as a chainperson, rodperson, instrumentperson, ordinary draftsperson, digitizer, scribe, photo lab technician, ordinary stereo plotter operator, aerial photo pilot, photo interpreter, and other positions of routine work.

(7) The term “license” means the registration of surveyors and mappers or the certification of businesses to practice surveying and mapping in this state.

(8) “Photogrammetric mapper” means any person who engages in the practice of surveying and mapping using aerial or terrestrial photography or other sources of images.

Reviser’s note.—Amended to conform to the repeal of ss. 472.039 and 472.041 by s. 8, ch. 2000-332, Laws of Florida.

Section 6. Subsection (1) of section 472.011, Florida Statutes, is amended to read:

472.011 Fees.—

(1) The board, by rule, may establish fees to be paid for applications, examination, reexamination, licensing and renewal, inactive status application and reactivation of inactive licenses, recordmaking and recordkeeping, and applications for providers of continuing education. The board may also establish by rule a delinquency fee. The board shall establish fees that are adequate to ensure the continued operation of the board. Fees shall be based on department estimates of the revenue required to implement ss. ~~472.001-472.037~~ 472.001-472.041 and the provisions of law with respect to the regulation of surveyors and mappers.

Reviser's note.—Amended to conform to the repeal of ss. 472.039 and 472.041 by s. 8, ch. 2000-332, Laws of Florida.

Section 7. Subsection (4) of section 472.015, Florida Statutes, is amended to read:

472.015 Licensure.—

(4) The department shall not issue a license by endorsement to any applicant who is under investigation in another state for any act that would constitute a violation of ss. ~~472.001-472.037~~ 472.001-472.041 or chapter 455 until such time as the investigation is complete and disciplinary proceedings have been terminated.

Reviser's note.—Amended to conform to the repeal of ss. 472.039 and 472.041 by s. 8, ch. 2000-332, Laws of Florida.

Section 8. Subsection (1) of section 472.021, Florida Statutes, is amended to read:

472.021 Certification of partnerships and corporations.—

(1) The practice of or the offer to practice surveying and mapping by registrants through a corporation or partnership offering surveying and mapping services to the public, or by a corporation or partnership offering said services to the public through registrants under ss. ~~472.001-472.037~~ 472.001-472.041 as agents, employees, officers, or partners, is permitted subject to the provisions of ss. ~~472.001-472.037~~ 472.001-472.041, provided that one or more of the principal officers of the corporation or one or more partners of the partnership and all personnel of the corporation or partnership who act in its behalf as surveyors and mappers in this state are registered as provided by ss. ~~472.001-472.037~~ 472.001-472.041, and, further, provided that the corporation or partnership has been issued a certificate of authorization by the board as provided in this section. All final drawings, specifications, plans, reports, or other papers or documents involving the practice of surveying and mapping which are prepared or approved for the use of the corporation or partnership or for delivery to any person or for public record within the state must be dated and must bear the signature and seal of the registrant who prepared or approved them. Nothing in this section shall be construed to allow a corporation to hold a certificate of registration to practice surveying and mapping. No corporation or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section, nor shall any individual practicing surveying and mapping be relieved of responsibility for professional services performed by reason of his or her employment or relationship with a corporation or partnership.

Reviser's note.—Amended to conform to the repeal of ss. 472.039 and 472.041 by s. 8, ch. 2000-332, Laws of Florida.

Section 9. Subsections (1) and (2) of section 472.025, Florida Statutes, are amended to read:

## 472.025 Seals.—

(1) The board shall prescribe, by rule, a form of seal to be used by all registrants holding valid certificates of registration, whether the registrants are corporations, partnerships, or individuals. Each registrant shall obtain an impression-type metal seal in that form; and all final drawings, plans, specifications, plats, or reports prepared or issued by the registrant in accordance with minimum technical standards set by the board shall be signed by the registrant, dated, and stamped with his or her seal. This signature, date, and seal shall be evidence of the authenticity of that to which they are affixed. Each registrant may in addition register his or her seal electronically in accordance with ss. ~~668.001-668.006~~ 282.70-282.75. Drawings, plans, specifications, reports, or documents prepared or issued by a registrant may be transmitted electronically and may be signed by the registrant, dated, and stamped electronically with such seal in accordance with ss. ~~668.001-668.006~~ 282.70-282.75.

(2) It is unlawful for any person to stamp, seal, or digitally sign any document with a seal or digital signature after his or her certificate of registration has expired or been revoked or suspended, unless such certificate of registration has been reinstated or reissued. When the certificate of registration of a registrant has been revoked or suspended by the board, the registrant shall, within a period of 30 days after the revocation or suspension has become effective, surrender his or her seal to the secretary of the board and confirm to the secretary the cancellation of the registrant's digital signature in accordance with ss. ~~668.001-668.006~~ 282.70-282.75. In the event the registrant's certificate has been suspended for a period of time, his or her seal shall be returned to him or her upon expiration of the suspension period.

Reviser's note.—Amended to conform to the redesignation of ss. 282.70-282.75 as ss. 668.001-668.006 by the reviser incident to compiling the Florida Statutes 2000.

Section 10. Section 472.027, Florida Statutes, is amended to read:

472.027 Minimum technical standards for surveying and mapping.—The board shall adopt rules relating to the practice of surveying and mapping which establish minimum technical standards to ensure the achievement of no less than minimum degrees of accuracy, completeness, and quality in order to assure adequate and defensible real property boundary locations and other pertinent information provided by surveyors and mappers under the authority of ss. ~~472.001-472.037~~ 472.001-472.041.

Reviser's note.—Amended to conform to the repeal of ss. 472.039 and 472.041 by s. 8, ch. 2000-332, Laws of Florida.

Section 11. Paragraphs (a) and (b) of subsection (1) of section 472.031, Florida Statutes, are amended to read:

472.031 Prohibitions; penalties.—

(1) No person shall:

(a) Practice surveying and mapping unless such person is registered pursuant to ss. ~~472.001-472.037~~ ~~472.001-472.041~~;

(b) Use the name or title “registered surveyor and mapper” when such person has not registered pursuant to ss. ~~472.001-472.037~~ ~~472.001-472.041~~;

Reviser’s note.—Amended to conform to the repeal of ss. 472.039 and 472.041 by s. 8, ch. 2000-332, Laws of Florida.

Section 12. Section 472.037, Florida Statutes, is amended to read:

472.037 Application of ss. ~~472.001-472.037~~ ~~472.001-472.041~~.—

(1) Nothing contained in ss. ~~472.001-472.037~~ ~~472.001-472.041~~ shall be construed to repeal, amend, limit, or otherwise affect any local building code or zoning law or ordinance, now or hereafter enacted, which is more restrictive with respect to the services of registered surveyors and mappers than the provisions of ss. ~~472.001-472.037~~ ~~472.001-472.041~~.

(2) In counties or municipalities that issue building permits, such permits shall not be issued in any case where it is apparent from the application for such building permit that the provisions of ss. ~~472.001-472.037~~ ~~472.001-472.041~~ have been violated. However, this shall not authorize the withholding of building permits in any cases within the exempt classes set forth in ss. ~~472.001-472.037~~ ~~472.001-472.041~~.

Reviser’s note.—Amended to conform to the repeal of ss. 472.039 and 472.041 by s. 8, ch. 2000-332, Laws of Florida.

Section 13. Section 476.024, Florida Statutes, is amended to read:

476.024 Purpose.—The Legislature deems it necessary in the interest of public health, safety, and welfare to regulate the practice of barbering in this state. However, restrictions should be imposed only to the extent necessary to protect the public from these recognized dangers and in a manner which will not unreasonably affect the competitive market.

Reviser’s note.—Amended to improve clarity.

Section 14. Paragraph (g) of subsection (1) of section 489.1136, Florida Statutes, is repealed.

Reviser’s note.—The cited paragraph requires medical gas system licensees to meet specified training requirements by October 1, 2000.

Section 15. Subsections (1) and (4) of section 494.0017, Florida Statutes, are amended to read:

494.0017 Mortgage Brokerage Guaranty Fund.—

(1) The department shall make transfers from the Regulatory Trust Fund to the Mortgage Brokerage Guaranty Fund to pay valid claims arising under former ss. 494.042, 494.043, and 494.044, as provided in former s. 494.00171.

(4) Notwithstanding s. ~~216.331~~ 215.965, the department may disburse funds to a court or court-appointed person for distribution, if the conditions precedent for recovery exist and the distribution would be the fairest and most equitable manner of distributing the funds.

Reviser's note.—Subsection (1) is amended to improve clarity, facilitate correct interpretation, and take into account any claims that have been filed and are still pending. Section 494.00171 was repealed by s. 70, ch. 2000-158, Laws of Florida. Subsection (4) is amended to conform to the redesignation of s. 216.331 as s. 215.965 by s. 59, ch. 2000-371, Laws of Florida.

Section 16. Paragraph (n) of subsection (1) of section 498.025, Florida Statutes, is amended to read:

498.025 Exemptions.—

(1) Except as provided in s. 498.022, the provisions of this chapter do not apply to:

(n) An offer or disposition of any interest in a subdivision that has received a development order pursuant to s. ~~380.06~~ 380.060 or s. 380.061, or the offer or disposition of any interest in subdivided lands by a person who has entered into a development agreement with local government in accordance with part II of chapter 163, subject to the following conditions:

1. All funds or property paid by a purchaser are escrowed until closing; and

2. Closing shall not occur until all promised improvements including infrastructure, facilities, and amenities represented by the seller or the seller's agent are deemed complete and the plat of same is recorded in the official records of the county in which the subdivision is located.

Reviser's note.—Amended to conform to the correct citation to the referenced material; s. 380.060 does not exist.

Section 17. Subsection (26) of section 499.005, Florida Statutes, is repealed.

Reviser's note.—Repeals a provision that has served its purpose. Section 499.018, which detailed the investigational drug application process, was repealed by s. 10, ch. 2000-326, Laws of Florida.

Section 18. Paragraph (b) of subsection (1) of section 499.015, Florida Statutes, is amended to read:

499.015 Registration of drugs, devices, and cosmetics; issuance of certificates of free sale.—

(1)

(b) The department may not register any product that does not comply with the Federal Food, Drug, and Cosmetic Act, as amended, or Title 21 C.F.R., ~~or that is not an approved investigational drug as provided for in s.~~



499.018. Registration of a product by the department does not mean that the product does in fact comply with all provisions of the Federal Food, Drug, and Cosmetic Act, as amended.

Reviser's note.—Amended to delete language that has served its purpose. Section 499.018, which detailed the investigational drug application process, was repealed by s. 10, ch. 2000-326, Laws of Florida.

Section 19. Subsection (1) of section 499.03, Florida Statutes, is amended to read:

499.03 Possession of new drugs or legend drugs without prescriptions unlawful; exemptions and exceptions.—

(1) A person may not possess, or possess with intent to sell, dispense, or deliver, any habit-forming, toxic, harmful, or new drug subject to s. 499.003(22), or legend drug as defined in s. 499.003(19) ~~499.003(18)~~, unless the possession of the drug has been obtained by a valid prescription of a practitioner licensed by law to prescribe the drug. However, this section does not apply to the delivery of such drugs to persons included in any of the classes named in this subsection, or to the agents or employees of such persons, for use in the usual course of their businesses or practices or in the performance of their official duties, as the case may be; nor does this section apply to the possession of such drugs by those persons or their agents or employees for such use:

(a) A licensed pharmacist or any person under the licensed pharmacist's supervision while acting within the scope of the licensed pharmacist's practice;

(b) A licensed practitioner authorized by law to prescribe legend drugs or any person under the licensed practitioner's supervision while acting within the scope of the licensed practitioner's practice;

(c) A qualified person who uses legend drugs for lawful research, teaching, or testing, and not for resale;

(d) A licensed hospital or other institution that procures such drugs for lawful administration or dispensing by practitioners;

(e) An officer or employee of a federal, state, or local government; or

(f) A person that holds a valid permit issued by the department pursuant to ss. 499.001-499.081 which authorizes that person to possess prescription drugs.

Reviser's note.—Amended to conform to the correct citation to the referenced material. Section 14, ch. 2000-326, Laws of Florida, redesignated a reference to s. 499.003 as s. 499.003(18), accounting for the deletion of former s. 499.003(16) by that law. Section 34, ch. 2000-242, Laws of Florida, added a new s. 499.003(11). The term "legend drug" continues to be defined at s. 499.003(19).

Section 20. Paragraph (c) of subsection (1) of section 499.05, Florida Statutes, is amended to read:

499.05 Rules.—

(1) The department shall adopt rules to implement and enforce ss. 499.001-499.081 with respect to:

(c) Application requirements, protocols, reporting requirements, and requirements for submitting other information to the department ~~and the Florida Drug Technical Review Panel, as required under the investigational drug program.~~

Reviser's note.—Amended to delete obsolete language. Provisions relating to the investigational drug program and to the Florida Drug Technical Review Panel were repealed by s. 10, ch. 2000-326, Laws of Florida.

Section 21. Subsection (1) of section 501.34, Florida Statutes, is amended to read:

501.34 Enforcement.—

(1) Any violation of this part by an insurer shall be deemed a violation of the Unfair Insurance Trade Practices Act, part ~~IX~~ X, chapter 626.

Reviser's note.—Amended to conform to the redesignation of part X of chapter 626 as part IX necessitated by the transfer of ss. 626.941-626.945, comprising former part IX, by ch. 98-89, Laws of Florida.

Section 22. Section 514.0231, Florida Statutes, is amended to read:

514.0231 Advisory committee to oversee sampling of beach waters.—The Department of Health shall form an interagency technical advisory committee to oversee the performance of the ~~study studies~~ study studies required in s. 514.023 ~~and section 6 of this act~~, and to advise it in rulemaking pertaining to standards for public bathing places along the coastal and intracoastal beaches and shores of the state. Membership on the committee shall consist of equal numbers of staff of the Department of Health and the Department of Environmental Protection with expertise in the subject matter of the study studies. Members shall be appointed by the respective secretaries of these departments. The committee shall be chaired by a representative from the Department of Health.

Reviser's note.—Amended to conform to the veto of section 6 of C.S. for S.B. 1412 (ch. 2000-309, Laws of Florida) by the Governor on June 16, 2000.

Section 23. Subsection (9) of section 527.01, Florida Statutes, is amended to read:

527.01 Definitions.—As used in this chapter:

(9) "Category IV liquefied petroleum gas dispenser and recreational vehicle servicer" means any person engaging in the business of operating a liquefied petroleum gas dispensing unit for the purpose of serving liquid

product to the ultimate consumer for industrial, commercial, or domestic use, and selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of liquefied petroleum gas, and whose services include the installation, service, or repair of recreational vehicle liquefied petroleum gas appliances and equipment.

Reviser's note.—Amended to improve clarity.

Section 24. Paragraph (b) of subsection (2) of section 527.02, Florida Statutes, is amended to read:

527.02 License; penalty; fees.—

(2) In addition to the requirements of subsection (1), any person applying for a license to engage in the activities of a pipeline system operator, category I liquefied petroleum gas dealer, category II liquefied petroleum gas dispenser, category IV liquefied petroleum gas dispenser and recreational vehicle servicer, LP gas installer, specialty installer, requalification of cylinders, or fabricator, repairer, and tester of vehicles and cargo tanks, must prove competency by passing a written examination administered by the department or its agent with a grade of 75 percent or above. Each applicant for examination shall submit a \$20 nonrefundable fee. The department shall by rule specify the general areas of competency to be covered by each examination and the relative weight to be assigned in grading each area tested.

(b) Qualifier cards issued to category I liquefied petroleum gas dealers and liquefied petroleum gas installers shall expire 3 years after the date of issuance. All category I liquefied petroleum gas dealer qualifiers and liquefied petroleum gas installer qualifiers holding a valid qualifier card upon the effective date of this act shall retain their qualifier status until July 1, 2003, and may sit for the master qualifier examination at any time during that time period. Alternatively, all category I liquefied petroleum gas dealer qualifiers and liquefied petroleum gas installer qualifiers may renew their qualification on or before July 1, 2003, upon application to the department, payment of a \$20 renewal fee, and documentation of the completion of a minimum of 12 hours approved continuing ~~continuous~~ education courses, as defined by department rule, during the previous 3-year period. Applications for renewal must be made 30 calendar days prior to expiration. Persons failing to renew prior to the expiration date must reapply and take a qualifier competency examination in order to reestablish category I liquefied petroleum gas dealer qualifier and liquefied petroleum gas installer qualifier status. In the event a category I liquefied petroleum gas qualifier or liquefied petroleum gas installer qualifier becomes a master qualifier at any time during the effective date of the qualifier card, the card shall remain in effect until expiration of the master qualifier certification.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation.

Section 25. Section 538.11, Florida Statutes, is amended to read:

538.11 Powers and duties of department; rules.—The same duties and privileges imposed by chapter 212 upon dealers of tangible personal prop-

erty respecting the keeping of books and records and accounts and compliance with rules of the department shall apply to and be binding upon all persons who are subject to the provisions of this chapter. The department shall administer, collect, and enforce the registration authorized under this chapter pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212, except as provided in this section. The provisions of chapter 212 regarding the keeping of records and books shall apply. The department, ~~under the applicable rules of the Career Service Commission,~~ is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The department is empowered to adopt such rules, and shall prescribe and publish such forms, as may be necessary to effectuate the purposes of this chapter. The Legislature hereby finds that the failure to promptly implement the provisions of this chapter would present an immediate threat to the welfare of the state. Therefore, the executive director of the department is hereby authorized to adopt emergency rules pursuant to s. 120.54(4), for purposes of implementing this chapter. Notwithstanding any other provision of law, such emergency rules shall remain effective for 6 months from the date of adoption. Other rules of the department related to and in furtherance of the orderly implementation of the chapter shall not be subject to a rule challenge under s. 120.56(2) or a drawout proceeding under s. 120.54(3)(c)2. but, once adopted, shall be subject to an invalidity challenge under s. 120.56(3). Such rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(3)(e)6.

Reviser's note.—Amended to delete language that has served its purpose. The Career Service Commission was repealed by s. 87, ch. 86-163, Laws of Florida.

Section 26. Subsections (3) and (4) of section 550.2633, Florida Statutes, are repealed.

Reviser's note.—The cited subsections relate to payment of moneys that escheated to the state during specified time periods in 1992.

Section 27. Paragraph (a) of subsection (9) of section 550.6305, Florida Statutes, is amended to read:

550.6305 Intertrack wagering; guest track payments; accounting rules.—

(9) A host track that has contracted with an out-of-state horse track to broadcast live races conducted at such out-of-state horse track pursuant to s. 550.3551(5) may broadcast such out-of-state races to any guest track and accept wagers thereon in the same manner as is provided in s. 550.3551.

(a) For purposes of this section, "net proceeds" means the amount of takeout remaining after the payment of state taxes, purses required pursuant to s. 550.0951(3)(c)1., the cost to the permitholder required to be paid to the out-of-state horse track, breeders' awards paid to the Florida Thoroughbred Breeders' Association and the Florida Standardbred Breeders and Owners Association, to be used as set forth in s. 550.625(2)(a) and (b), and

the deduction of any amount retained pursuant to s. 550.615(11) ~~550.615(12)~~.

Reviser's note.—Amended to conform to the redesignation of s. 550.615(12) as s. 550.615(11) by the reviser incident to compiling the Florida Statutes 2000.

Section 28. Section 550.904, Florida Statutes, is amended to read:

550.904 Entry into force.—This compact shall come into force when enacted by any four states. Thereafter, this compact shall become effective in any other state upon that state's enactment of this compact and upon the affirmative vote of a majority of the officials on the compact committee as provided in s. 550.909 ~~section 41~~.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. Section 41, ch. 2000-354, Laws of Florida, was codified as s. 550.911 and relates to immunity from liability for specified compact committee personnel. Section 39, ch. 2000-354, codified as s. 550.909, relates to voting requirements for the compact committee.

Section 29. Paragraph (b) of subsection (1) of section 550.912, Florida Statutes, is amended to read:

550.912 Rights and responsibilities of each party state.—

(1) By enacting this compact, each party state:

(b) Agrees not to treat a notification to an applicant by the compact committee described in s. 550.908 ~~subsection (3) of section 42~~ as the denial of a license, or to penalize such an applicant in any other way based solely on such a decision by the compact committee.

Reviser's note.—Amended to correct an apparent error. Subsection (3) of s. 42, ch. 2000-354, Laws of Florida, does not exist. Section 38, ch. 2000-354, codified as s. 550.908, does contain a subsection (3) relating to agreement not to treat notification to an applicant by the compact committee as denial of a license.

Section 30. Effective July 1, 2001, subsection (3) of section 553.381, Florida Statutes, as amended by section 62 of chapter 2000-141, Laws of Florida, is amended to read:

553.381 Manufacturer certification.—

(3) Certification of manufacturers under this section shall be for a period of 3 years, subject to renewal by the manufacturer. Upon application for renewal, the manufacturer must submit the information described in subsection (1) ~~(2)~~ or a sworn statement that there has been no change in the status or content of that information since the manufacturer's last submittal. Fees for renewal of manufacturers' certification shall be established by the commission by rule.

Reviser's note.—Amended to correct an apparent error. Subsection (1) describes information to be submitted. Subsection (2) relates to revocation of certification.

Section 31. Section 553.507, Florida Statutes, is amended to read:

553.507 Exemptions.—Sections 553.501-553.513 and s. 553.5041(4) ~~316.1955(4)~~ do not apply to any of the following:

(1) Buildings, structures, or facilities that were either under construction or under contract for construction on October 1, 1997.

(2) Buildings, structures, or facilities that were in existence on October 1, 1997, unless:

(a) The building, structure, or facility is being converted from residential to nonresidential or mixed use, as defined by local law;

(b) The proposed alteration or renovation of the building, structure, or facility will affect usability or accessibility to a degree that invokes the requirements of s. 303(a) of the Americans with Disabilities Act of 1990; or

(c) The original construction or any former alteration or renovation of the building, structure, or facility was carried out in violation of applicable permitting law.

Reviser's note.—Amended to conform to the repeal of former s. 316.1955(4) by s. 16, ch. 2000-141, Laws of Florida, and the enactment of s. 553.5041(4), containing identical provisions, by s. 66, ch. 2000-141.

Section 32. Paragraph (d) of subsection (1) of section 553.902, Florida Statutes, is amended to read:

553.902 Definitions.—For the purposes of this part:

(1) "Exempted building" means:

(d) Any historical building as described in s. 267.021(3) ~~267.021(6)~~.

Reviser's note.—Amended to conform to the redesignation of s. 267.021(6) as s. 267.021(3) by s. 43, ch. 86-163, Laws of Florida.

Section 33. Effective July 1, 2001, paragraph (d) of subsection (1) of section 553.902, Florida Statutes, as amended by section 94 of chapter 2000-141, Laws of Florida, is amended to read:

553.902 Definitions.—For the purposes of this part:

(1) "Exempted building" means:

(d) Any historical building as described in s. 267.021(3) ~~267.021(6)~~.

The Florida Building Commission may recommend to the Legislature additional types of buildings which should be exempted from compliance with the Florida Energy Efficiency Code for Building Construction.

Reviser's note.—Amended to conform to the redesignation of s. 267.021(6) as s. 267.021(3) by s. 43, ch. 86-163, Laws of Florida.

Section 34. Subsection (6) of section 569.11, Florida Statutes, is amended to read:

569.11 Possession, misrepresenting age or military service to purchase, and purchase of tobacco products by persons under 18 years of age prohibited; penalties; jurisdiction; disposition of fines.—

(6) Eighty percent of all civil penalties received by a county court pursuant to this section shall be transferred to the Department of Education to provide for teacher training and for research and evaluation to reduce and prevent the use of tobacco products by children, ~~pursuant to s. 233.067(4)~~. The remaining 20 percent of civil penalties received by a county court pursuant to this section shall remain with the clerk of the county court to cover administrative costs.

Reviser's note.—Amended to conform to the repeal of s. 233.067 by s. 38, ch. 97-190, Laws of Florida.

Section 35. Paragraph (h) of subsection (1) of section 570.21, Florida Statutes, is amended to read:

570.21 Publication of department's bulletins, publications, and reports.—

(1) The Divisions of Administration and Marketing and Development may publish bulletins or other publications and reports containing data and statistics and information relating to:

(h) Any other matter of an agricultural nature which the department deems proper and that is not within the jurisdiction of the agricultural experiment station or the, agricultural extension service, ~~or the Division of Economic Development of the Department of Commerce~~.

Reviser's note.—Amended to delete obsolete language relating to the Department of Commerce as created by s. 20.17. Section 20.17 was repealed by s. 3, ch. 96-320, Laws of Florida.

Section 36. Subsection (8) of section 576.045, Florida Statutes, is amended to read:

576.045 Nitrate; findings and intent; fees; purpose; best-management practices; waiver of liability; compliance; rules; report; exclusions; expiration.—

(8) EXPIRATION OF PROVISIONS.—Subsections (1), (2), (3), (4), and (6), ~~and~~ (7) expire on December 31, 2003. Subsections (5) and (7) ~~(8)~~ expire on December 31, 2008.

Reviser's note.—Amended to conform to the repeal of former subsection (7) by s. 77, ch. 2000-158, Laws of Florida, and to conform to the redesignation of subsection (8) as subsection (7) necessitated by that repeal.

Section 37. Subsection (1) of section 589.065, Florida Statutes, is amended to read:

589.065 Florida Forever Program Trust Fund of the Department of Agriculture and Consumer Services.—

(1) There is created a Florida Forever Program Trust Fund within the Department of Agriculture and Consumer Services to carry out the duties of the department under the Florida Forever Act as specified in s. ~~259.105(3)(f)~~ ~~259.105(3)(e)~~. The trust fund shall receive funds pursuant to s. ~~259.105(3)(f)~~ ~~259.105(3)(e)~~.

Reviser's note.—Amended to conform to the redesignation of s. 259.105(3)(e) as s. 259.105(3)(f) by s. 11, ch. 2000-170, Laws of Florida.

Section 38. Paragraph (k) of subsection (1) of section 597.003, Florida Statutes, is amended 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:

(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 ~~propriety~~ 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.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation.

Section 39. Paragraph (a) of subsection (2) of section 597.0041, Florida Statutes, is amended 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 ~~of~~ revocation, impose on the violator an administrative fine in an amount not to exceed \$1,000 per violation per day.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation.

Section 40. Paragraph (g) of subsection (2) of section 607.1901, Florida Statutes, is amended to read:

607.1901 Corporations Trust Fund creation; transfer of funds.—

(2)

(g) The division shall transfer from the trust fund to the Historical Resources Operating Trust Fund, quarterly, proration transferring \$2 million each fiscal year, to be used as provided in s. 267.0617 ~~267.0671~~.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 267.0671 does not exist; s. 267.0617 relates to the Historic Preservation Grant Program and the Historical Resources Operating Trust Fund.

Section 41. Subsection (9) of section 617.1622, Florida Statutes, is amended to read:

617.1622 Annual report for Department of State.—

(9) The department shall prescribe the forms on which to make the annual report called for in this section and may substitute the uniform business report, pursuant to s. 606.06, as a means of satisfying the requirement of this section ~~part~~.

Reviser's note.—Amended to correct an apparent error. Chapter 617 is not divided into parts.

Section 42. Subsection (6) of section 620.8101, Florida Statutes, is amended to read:

620.8101 Definitions.—As used in this act, the term:

(6) "Limited liability partnership" means a registered limited liability partnership registered under former ss. 620.78-620.789 immediately prior to the effective date of this act or a partnership that has filed a statement of qualification under s. 620.9001 and has not filed a similar statement in any other jurisdiction.

Reviser's note.—Amended to conform to the repeal of ss. 620.78-620.789 by s. 36, ch. 99-285, Laws of Florida.

Section 43. Paragraph (a) of subsection (1) of section 620.9901, Florida Statutes, is amended to read:

620.9901 Applicability.—

(1) Beginning January 1, 1996, and ending January 1, 1998, the Revised Uniform Partnership Act of 1995 governs only a partnership formed:

(a) On or after January 1, 1996, unless such partnership is continuing the business of a dissolved partnership under former s. 620.76; and

Reviser's note.—Amended to conform to the repeal of s. 620.76 by s. 24, ch. 99-4, Laws of Florida.

Section 44. Subparagraph 1. of paragraph (b) of subsection (1) of section 624.408, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete a provision that has served its purpose. The cited subparagraph sets a required amount of surplus for December 31, 1999, through December 30, 2000, for casualty insurers holding a certificate of authority on December 1, 1993.

Section 45. Paragraph (b) of subsection (7) of section 626.112, Florida Statutes, is amended to read:

626.112 License and appointment required; agents, customer representatives, solicitors, adjusters, insurance agencies, service representatives, managing general agents.—

(7)

(b) An insurance agency shall, as a condition precedent to continuing business, obtain an insurance agency license if the department finds that, with respect to any majority owner, partner, manager, director, officer, or other person who manages or controls the agency, any person has, subsequent to the effective date of this act:

1. Been found guilty of, or has pleaded guilty or nolo contendere to, a felony in this state or any other state relating to the business of insurance or to an insurance agency, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the cases.

2. Employed any individual in a managerial capacity or in a capacity dealing with the public who is under an order of revocation or suspension issued by the department. An insurance agency may request, on forms prescribed by the department, verification of any person's license status. If a request is mailed within 5 working days after an employee is hired, and the employee's license is currently suspended or revoked, the agency shall not be required to obtain a license, if the unlicensed person's employment is immediately terminated.

3. Operated the agency or permitted the agency to be operated in violation of s. 626.747.

4. With such frequency as to have made the operation of the agency hazardous to the insurance-buying public or other persons:

a. Solicited or handled controlled business. This subparagraph shall not prohibit the licensing of any lending or financing institution or creditor, with respect to insurance only, under credit life or disability insurance policies of borrowers from the institutions, which policies are subject to part IX of chapter 627.

b. Misappropriated, converted, or unlawfully withheld moneys belonging to insurers, insureds, beneficiaries, or others and received in the conduct of business under the license.

c. Unlawfully rebated, attempted to unlawfully rebate, or unlawfully divided or offered to divide commissions with another.

d. Misrepresented any insurance policy or annuity contract, or used deception with regard to any policy or contract, done either in person or by any form of dissemination of information or advertising.

e. Violated any provision of this code or any other law applicable to the business of insurance in the course of dealing under the license.

f. Violated any lawful order or rule of the department.

g. Failed or refused, upon demand, to pay over to any insurer he or she represents or has represented any money coming into his or her hands belonging to the insurer.

h. Violated the provision against twisting as defined in s. 626.9541(1)(l).

i. In the conduct of business, engaged in unfair methods of competition or in unfair or deceptive acts or practices, as prohibited under part IX ~~X~~ of this chapter.

j. Willfully overinsured any property insurance risk.

k. Engaged in fraudulent or dishonest practices in the conduct of business arising out of activities related to insurance or the insurance agency.

l. Demonstrated lack of fitness or trustworthiness to engage in the business of insurance arising out of activities related to insurance or the insurance agency.

m. Authorized or knowingly allowed individuals to transact insurance who were not then licensed as required by this code.

5. Knowingly employed any person who within the preceding 3 years has had his or her relationship with an agency terminated in accordance with paragraph (d).

6. Willfully circumvented the requirements or prohibitions of this code.

Reviser's note.—Amended to conform to the redesignation of part X of chapter 626 as part IX necessitated by the transfer of ss. 626.941-626.945, comprising former part IX, by ch. 98-89, Laws of Florida.

Section 46. Subsection (6) of section 626.621, Florida Statutes, is amended to read:

626.621 Grounds for discretionary refusal, suspension, or revocation of agent's, solicitor's, adjuster's, customer representative's, service representative's, or managing general agent's license or appointment.—The department may, in its discretion, deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, solicitor, adjuster, customer representative, service representative, or managing general agent, and it may suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.611:

(6) In the conduct of business under the license or appointment, engaging in unfair methods of competition or in unfair or deceptive acts or practices, as prohibited under part IX ~~X~~ of this chapter, or having otherwise shown himself or herself to be a source of injury or loss to the public or detrimental to the public interest.

Reviser's note.—Amended to conform to the redesignation of part X of chapter 626 as part IX necessitated by the transfer of ss. 626.941-626.945, comprising former part IX, by ch. 98-89, Laws of Florida.

Section 47. Paragraph (h) of subsection (5) of section 626.6215, Florida Statutes, is amended to read:

626.6215 Grounds for discretionary refusal, suspension, or revocation of insurance agency license.—The department may, in its discretion, deny, suspend, revoke, or refuse to continue the license of any insurance agency if it finds, as to any insurance agency or as to any majority owner, partner, manager, director, officer, or other person who manages or controls such insurance agency, that any one or more of the following applicable grounds exist:

(5) Committing any of the following acts with such frequency as to have made the operation of the agency hazardous to the insurance-buying public or other persons:

(h) In the conduct of business under the license, engaging in unfair methods of competition or in unfair or deceptive acts or practices as prohibited under part IX ~~X~~ of this chapter.

Reviser's note.—Amended to conform to the redesignation of part X of chapter 626 as part IX necessitated by the transfer of ss. 626.941-626.945, comprising former part IX, by ch. 98-89, Laws of Florida.

Section 48. Subsection (2) of section 626.797, Florida Statutes, is amended to read:

626.797 Code of ethics.—

(2) The code of ethics shall apply standards of conduct designed to avoid the commission of acts or the existence of circumstances which would constitute grounds for suspension, revocation, or refusal of license under ss. 626.611 and 626.621 and to avoid the use of unfair trade practices and unfair methods of competition which would be in violation of any provision of part IX X.

Reviser's note.—Amended to conform to the redesignation of part X of chapter 626 as part IX necessitated by the transfer of ss. 626.941-626.945, comprising former part IX, by ch. 98-89, Laws of Florida.

Section 49. Subsection (5) of section 626.844, Florida Statutes, is amended to read:

626.844 Grounds for discretionary refusal, suspension, or revocation of license or appointment.—The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the license or appointment of any title insurance agent or agency, and it may suspend or revoke the eligibility to hold a license or appointment of any such title insurance agent or agency if it finds that as to the applicant or licensee or appointee, or any principal thereof, any one or more of the following grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.8437:

(5) Engaging in unfair methods of competition or in unfair or deceptive acts or practices in the conduct of business, as prohibited under part IX X of this chapter, or having otherwise shown himself or herself to be a source of injury or loss to the public or to be detrimental to the public interest.

Reviser's note.—Amended to conform to the redesignation of part X of chapter 626 as part IX necessitated by the transfer of ss. 626.941-626.945, comprising former part IX, by ch. 98-89, Laws of Florida.

Section 50. Paragraph (b) of subsection (1) of section 626.8734, Florida Statutes, is amended to read:

626.8734 Nonresident independent adjuster's qualifications.—

(1) The department shall, upon application therefor, issue a license to an applicant for a nonresident independent adjuster's license upon determining that the applicant has paid the applicable license fees required under s. 624.501 and:

(b) Has passed to the satisfaction of the department a written Florida independent adjuster's examination of the scope prescribed in s. ~~626.214(6)~~ 626.241(6); however, the requirement for the examination does not apply to any of the following:

1. An applicant who is licensed as a resident independent adjuster in his or her state of residence when that state requires the passing of a written examination in order to obtain the license and a reciprocal agreement with the appropriate official of that state has been entered into by the department; or

2. An applicant who is licensed as a nonresident independent adjuster in a state other than his or her state of residence when the state of licensure requires the passing of a written examination in order to obtain the license and a reciprocal agreement with the appropriate official of the state of licensure has been entered into by the department.

Reviser's note.—Amended to facilitate correct interpretation. Section 626.214 does not exist; s. 626.241(6) provides for the scope of the examination.

Section 51. Subsection (2) of section 626.909, Florida Statutes, is amended to read:

626.909 Jurisdiction of department; service of process on Secretary of State.—

(2) In addition to the procedure for service of process on unauthorized insurers or persons representing or aiding such insurers contained in ss. 626.906 and 626.907, the department shall have the right to bring any action, suit, or proceeding in the name of the state or conduct any proceeding, examination, or hearing provided for in this code against any unauthorized insurer or person representing or aiding such insurer for violation of any lawful order of the department or any provision of this code, specifically including but not limited to the regulation of trade practices provided for in part IX ~~X~~ of this chapter, if the insurer or person representing or aiding such insurer transacts insurance in this state as defined in ss. 624.10 and 626.906 and the insurer does not transact such business under a subsisting certificate of authority as required by s. 624.401. In the event the transaction of business is done by mail, the venue of the act is at the point where the matter transmitted by mail is delivered and takes effect.

Reviser's note.—Amended to conform to the redesignation of part X of chapter 626 as part IX necessitated by the transfer of ss. 626.941-626.945, comprising former part IX, by ch. 98-89, Laws of Florida.

Section 52. Subsection (10) of section 626.9911, Florida Statutes, is amended to read:

626.9911 Definitions.—As used in this act, the term:

(10) "Viatical settlement purchaser" means a person, other than a licensee under this part, an accredited investor as defined in Rule 501, Regulation D of the Securities Act Rules, or a qualified institutional buyer as defined by Rule 144(a) of the Federal Securities Act, or a special purpose entity who gives a sum of money as consideration for a life insurance policy or an equitable or legal interest in the death benefits of a life insurance policy which has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit. The above references to Rule 501, Regulation D and Rule 144(a) of the Federal Securities Act are used strictly for defining purposes and shall not be interpreted in any other manner. Any person who claims to be an accredited investor shall sign an affidavit stating that he or she is an accredited investor, the basis of that claim, and that he or she understands that as an accredited investor he or

she will not be entitled to certain protections of the Viatical Settlement Act. This affidavit must be kept with other documents required to be maintained by this act.

Reviser's note.—Amended to improve clarity. The full title of material relating to viatical settlements in part X of chapter 626 is the “Viatical Settlement Act.”

Section 53. Subsection (2) of section 626.99275, Florida Statutes, is amended to read:

626.99275 Prohibited practices; penalties.—

(2) A person who violates any provision of this section commits:

(a) A felony of the third degree, punishable as provided in s. 775.082, s. ~~775.083~~ ~~774.083~~, or s. 775.084, if the insurance policy involved is valued at any amount less than \$20,000.

(b) A felony of the second degree, punishable as provided in s. 775.082, s. ~~775.083~~ ~~774.083~~, or s. 775.084, if the insurance policy involved is valued at \$20,000 or more, but less than \$100,000.

(c) A felony of the first degree, punishable as provided in s. 775.082, s. ~~775.083~~ ~~774.083~~, or s. 775.084, if the insurance policy involved is valued at \$100,000 or more.

Reviser's note.—Amended to facilitate correct interpretation. Section 774.083 does not exist; s. 775.083 relates to fines for criminal acts.

Section 54. Subsection (3) of section 627.031, Florida Statutes, is amended to read:

627.031 Purposes of this part; interpretation.—

(3) Nothing in this part shall be construed to repeal or modify the provisions of part IX ~~X~~ of chapter 626, relating to unfair trade practices.

Reviser's note.—Amended to conform to the redesignation of part X of chapter 626 as part IX necessitated by the transfer of ss. 626.941-626.945, comprising former part IX, by ch. 98-89, Laws of Florida.

Section 55. Subsection (4) of section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(4) The establishment of any rate, rating classification, rating plan or schedule, or variation thereof in violation of part IX ~~X~~ of chapter 626 is also in violation of this section.

Reviser's note.—Amended to conform to the redesignation of part X of chapter 626 as part IX necessitated by the transfer of ss. 626.941-626.945, comprising former part IX, by ch. 98-89, Laws of Florida.

Section 56. Section 627.0661, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete obsolete language relating to insurers exempt from the excess profit requirements. Section 624.509(10), describing these insurers, was repealed by s. 39, ch. 92-173, Laws of Florida.

Section 57. Subsection (4) of section 627.357, Florida Statutes, is amended to read:

627.357 Medical malpractice self-insurance.—

(4) The fund is subject to regulation and investigation by the department. The fund is subject to rules of the department and to part IX X of chapter 626, relating to trade practices and frauds.

Reviser's note.—Amended to conform to the redesignation of part X of chapter 626 as part IX necessitated by the transfer of ss. 626.941-626.945, comprising former part IX, by ch. 98-89, Laws of Florida.

Section 58. Subsection (10) of section 627.481, Florida Statutes, is amended to read:

627.481 Requirements for certain annuity agreements.—

(10) The provisions of part IX X of chapter 626, apply to issuers of annuity agreements under this section.

Reviser's note.—Amended to conform to the redesignation of part X of chapter 626 as part IX necessitated by the transfer of ss. 626.941-626.945, comprising former part IX, by ch. 98-89, Laws of Florida.

Section 59. Paragraph (b) of subsection (2) of section 627.6487, Florida Statutes, is amended to read:

627.6487 Guaranteed availability of individual health insurance coverage to eligible individuals.—

(2) For the purposes of this section:

(b) "Individual health insurance" means health insurance, as defined in s. 627.6561(5)(a)2., which is offered to an individual, including certificates of coverage offered to individuals in this state as part of a group policy issued to an association outside this state, but the term does not include short-term limited duration insurance or excepted benefits specified in s. ~~627.6561(5)(b)~~ ~~624.6561(5)(b)~~ or, if the benefits are provided under a separate policy, certificate, or contract, the term does not include excepted benefits specified in s. 627.6561(5)(c), (d), or (e).

Reviser's note.—Amended to facilitate correct interpretation. Section 624.6561(5)(b) does not exist; s. 627.6561(5)(b) relates to excepted benefits.

Section 60. Paragraph (i) of subsection (11) and paragraph (e) of subsection (12) of section 627.6699, Florida Statutes, are amended to read:



627.6699 Employee Health Care Access Act.—

(11) SMALL EMPLOYER HEALTH REINSURANCE PROGRAM.—

(i) If a health benefit plan for a small employer issued in accordance with this subsection is entirely or partially reinsured with the program, the premium charged to the small employer for any rating period for the coverage issued must be consistent with the requirements relating to premium rates set forth in this section ~~s. 627.4106~~.

(12) STANDARD, BASIC, AND LIMITED HEALTH BENEFIT PLANS.—

(e) A small employer carrier may not use any policy, contract, form, or rate under this section, including applications, enrollment forms, policies, contracts, certificates, evidences of coverage, riders, amendments, endorsements, and disclosure forms, until the insurer has filed it with the department and the department has approved it under ss. 627.410, ~~627.4106~~, and 627.411 and this section.

Reviser's note.—Amended to conform to the repeal of s. 627.4106 by s. 83, ch. 93-129, Laws of Florida. Material relating to small employer health benefit plan rates and filing was added to s. 627.6699 by s. 65, ch. 93-129.

Section 61. Section 627.6735, Florida Statutes, is amended to read:

627.6735 Order to discontinue certain advertising.—An insurer must file with the department all advertisements for Medicare supplement policies pursuant to rules adopted by the department. If, in the opinion of the department, any advertisement by a Medicare supplement policy insurer violates any of the provisions of part ~~IX~~ X of chapter 626 or any rule of the department, the department may enter an immediate order requiring that the use of the advertisement be discontinued. If requested by the insurer, the department shall conduct a hearing within 10 days of the entry of such order. If, after the hearing or by agreement with the insurer, a final determination is made that the advertising was in fact violative of any provision of part ~~IX~~ X of chapter 626 or of any rule of the department, the department may, in lieu of revocation of the certificate of authority, require the publication of a corrective advertisement; impose an administrative penalty of up to \$10,000; and, in the case of an initial solicitation, require that the insurer, prior to accepting any application received in response to the advertisement, provide an acceptable clarification of the advertisement to each individual applicant.

Reviser's note.—Amended to conform to the redesignation of part X of chapter 626 as part IX necessitated by the transfer of ss. 626.941-626.945, comprising former part IX, by ch. 98-89, Laws of Florida.

Section 62. Subsection (1) of section 627.736, Florida Statutes, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority; claims.—

(1) **REQUIRED BENEFITS.**—Every insurance policy complying with the security requirements of s. 627.733 shall provide personal injury protection to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in such motor vehicle, and other persons struck by such motor vehicle and suffering bodily injury while not an occupant of a self-propelled vehicle, subject to the provisions of subsection (2) and paragraph (4)(d), to a limit of \$10,000 for loss sustained by any such person as a result of bodily injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle as follows:

(a) **Medical benefits.**—Eighty percent of all reasonable expenses for necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic devices, and necessary ambulance, hospital, and nursing services. Such benefits shall also include necessary remedial treatment and services recognized and permitted under the laws of the state for an injured person who relies upon spiritual means through prayer alone for healing, in accordance with his or her religious beliefs.

(b) **Disability benefits.**—Sixty percent of any loss of gross income and loss of earning capacity per individual from inability to work proximately caused by the injury sustained by the injured person, plus all expenses reasonably incurred in obtaining from others ordinary and necessary services in lieu of those that, but for the injury, the injured person would have performed without income for the benefit of his or her household. All disability benefits payable under this provision shall be paid not less than every 2 weeks.

(c) **Death benefits.**—Death benefits of \$5,000 per individual. The insurer may pay such benefits to the executor or administrator of the deceased, to any of the deceased's relatives by blood or legal adoption or connection by marriage, or to any person appearing to the insurer to be equitably entitled thereto.

Only insurers writing motor vehicle liability insurance in this state may provide the required benefits of this section, and no such insurer shall require the purchase of any other motor vehicle coverage other than the purchase of property damage liability coverage as required by s. 627.7275 as a condition for providing such required benefits. Insurers may not require that property damage liability insurance in an amount greater than \$10,000 be purchased in conjunction with personal injury protection. Such insurers shall make benefits and required property damage liability insurance coverage available through normal marketing channels. Any insurer writing motor vehicle liability insurance in this state who fails to comply with such availability requirement as a general business practice shall be deemed to have violated part ~~IX~~ X of chapter 626, and such violation shall constitute an unfair method of competition or an unfair or deceptive act or practice involving the business of insurance; and any such insurer committing such violation shall be subject to the penalties afforded in such part, as well as those which may be afforded elsewhere in the insurance code.

Reviser's note.—Amended to conform to the redesignation of part X of chapter 626 as part IX necessitated by the transfer of ss. 626.941-626.945, comprising former part IX, by ch. 98-89, Laws of Florida.

Section 63. Section 627.9403, Florida Statutes, is amended to read:

627.9403 Scope.—The provisions of this part shall apply to long-term care insurance policies delivered or issued for delivery in this state, and to policies delivered or issued for delivery outside this state to the extent provided in s. 627.9406, by an insurer, a fraternal benefit society as defined in s. 632.601, ~~a health care services plan as defined in s. 641.01~~, a health maintenance organization as defined in s. 641.19, a prepaid health clinic as defined in s. 641.402, or a multiple-employer welfare arrangement as defined in s. 624.437. A policy which is advertised, marketed, or offered as a long-term care policy and as a Medicare supplement policy shall meet the requirements of this part and the requirements of ss. 627.671-627.675 and, to the extent of a conflict, be subject to the requirement that is more favorable to the policyholder or certificateholder. The provisions of this part shall not apply to a continuing care contract issued pursuant to chapter 651 and shall not apply to guaranteed renewable policies issued prior to October 1, 1988. Any limited benefit policy that limits coverage to care in a nursing home or to one or more lower levels of care required or authorized to be provided by this part or by department rule must meet all requirements of this part that apply to long-term care insurance policies, except ss. 627.9407(3)(c), (9), (10)(f), and (12) and 627.9407(2). If the limited benefit policy does not provide coverage for care in a nursing home, but does provide coverage for one or more lower levels of care, the policy shall also be exempt from the requirements of s. 627.9407(3)(d).

Reviser's note.—Amended to conform to the repeal of s. 641.01 by s. 185, ch. 91-108, Laws of Florida.

Section 64. Subsection (2) of section 627.9407, Florida Statutes, is amended to read:

627.9407 Disclosure, advertising, and performance standards for long-term care insurance.—

(2) ADVERTISING.—The department shall adopt rules setting forth standards for advertising, marketing, and sale of long-term care policies in order to protect applicants from unfair or deceptive sales or enrollment practices. An insurer shall file with the department any long-term care insurance advertising material intended for use in this state at least 30 days before the date of use of the advertisement in this state. Within 30 days after the date of receipt of the advertising material, the department shall review the material and shall disapprove any advertisement if, in the opinion of the department, such advertisement violates any of the provisions of this part or of part ~~IX~~ X of chapter 626 or any rule of the department. The department may disapprove an advertisement at any time and enter an immediate order requiring that the use of the advertisement be discontinued if it determines that the advertisement violates any of the provisions of this part or of part ~~IX~~ X of chapter 626 or any rule of the department.

Reviser's note.—Amended to conform to the redesignation of part X of chapter 626 as part IX necessitated by the transfer of ss. 626.941-626.945, comprising former part IX, by ch. 98-89, Laws of Florida.

Section 65. Paragraph (h) of subsection (3) of section 627.94072, Florida Statutes, is amended to read:

627.94072 Mandatory offers.—

(3) For purposes of this section, the nonforfeiture protection provision providing a shortened benefit period shall, at a minimum, provide the following:

(h) Premiums charged for a policy or certificate containing nonforfeiture benefits shall be subject to the loss ratio requirements of s. 627.9407(6) ~~626.9407(6)~~ treating the policy as a whole.

Reviser's note.—Amended to facilitate correct interpretation. Section 626.9407(6) does not exist; s. 627.9407(6) relates to loss ratio and reserve standards.

Section 66. Subsection (5) of section 627.944, Florida Statutes, is amended to read:

627.944 Risk retention groups not certificated in this state.—Risk retention groups certificated or licensed in states other than this state and seeking to do business as a risk retention group in this state must observe and abide by the laws of this state as follows:

(5) **DECEPTIVE, FALSE, OR FRAUDULENT PRACTICES.**—Any risk retention group shall comply with and be subject to the laws of this state regarding deceptive, false, or fraudulent acts or practices, including the provisions of part IX X of chapter 626. If the department seeks an injunction regarding conduct in violation of these laws, the injunction may be obtained from any Florida court of competent jurisdiction.

Reviser's note.—Amended to conform to the redesignation of part X of chapter 626 as part IX necessitated by the transfer of ss. 626.941-626.945, comprising former part IX, by ch. 98-89, Laws of Florida.

Section 67. Paragraph (c) of subsection (2) and paragraph (c) of subsection (3) of section 628.909, Florida Statutes, are amended to read:

628.909 Applicability of other laws.—

(2) The following provisions of the Florida Insurance Code shall apply to captive insurers who are not industrial insured captive insurers to the extent that such provisions are not inconsistent with this part:

(c) Chapter 626, part IX X.

(3) The following provisions of the Florida Insurance Code shall apply to industrial insured captive insurers to the extent that such provisions are not inconsistent with this part:

(c) Chapter 626, part IX X.

Reviser's note.—Amended to conform to the redesignation of part X of chapter 626 as part IX necessitated by the transfer of ss. 626.941-626.945, comprising former part IX, by ch. 98-89, Laws of Florida.

Section 68. Subsection (8) of section 631.718, Florida Statutes, is amended to read:

631.718 Assessments.—

(8) The association shall issue to each insurer paying an assessment under this part, other than a Class A assessment, a certificate of contribution, in a form prescribed by the department, for the amount of the assessment so paid. All outstanding certificates are of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the department approves. However, any amount offset pursuant to s. ~~631.72~~ ~~631.720~~ may not be shown as an asset of the insurer on any of its financial statements.

Reviser's note.—Amended to facilitate correct interpretation. Section 631.720 does not exist; s. 631.72 relates to offset.

Section 69. Paragraph (a) of subsection (1) of section 631.911, Florida Statutes, is amended to read:

631.911 Creation of the Florida Workers' Compensation Insurance Guaranty Association, Incorporated; merger; effect of merger.—

(1)(a) The Florida Self-Insurance Fund Guaranty Association established in former part V of chapter 631 and the workers' compensation insurance account, which includes excess workers' compensation insurance, established in former s. 631.55(2)(a) shall be merged, effective October 1, 1997, or as provided in paragraph (b), in accordance with the plan of operation adopted by the interim board of directors. The successor nonprofit corporation shall be known as the "Florida Workers' Compensation Insurance Guaranty Association, Incorporated."

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Sections comprising former part V of chapter 631, the Florida Self-Insurance Fund Guaranty Act, were repealed and transferred and a new part V, the Florida Workers' Compensation Insurance Guaranty Association Act, was created pursuant to ch. 97-262, Laws of Florida. Section 631.55(2)(a) was repealed by s. 18, ch. 97-262.

Approved by the Governor May 25, 2001.

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