CHAPTER 2002-1

Senate Bill No. 1336

An act relating to the Florida Statutes; amending ss. 11.45, 14.203, 14.29, 15.091, 20.171, 20.23, 20.255, 20.41, 20.435, 27.015, 27.345, 27.709, 39.01, 83.806, 101.27, 110.123, 110.191, 110.205, 112.313, 121.052, 121.22, 159.39, 163.3177, 189.412, 189.418, 196.1983, 199.1055, 201.15, 202.18, 202.20, 202.37, 206.46, 218.76, 267.1732, 282.102, 287.057, 288.9604, 288.9610, 316.515, 318.21, 320.08058, 320.645, 322.095, 327.301, 339.2405, 349.03, 370.0603, 373.042, 373.608, 381.6024, 395.2050, 395.4045, 399.125, 400.119, 400.141, 400.426, 402.313, 402.45, 402.731, 404.056, 408.045, 409.906, 409.91196, 420.503, 420.624, 440.14, 463.016, 464.203, 468.1135, 483.901, 494.003, 494.006, 550.2633, 550.6305, 553.73, 553.80, 625.171, 626.032, 626.202, 626.874, 627.702, 633.111, 660.27, 680.1031, 709.08, 723.06116, 731.201, 732.219, 733.501, 733.617, 734.101, 765.5185, 765.5215, 765.5216, 766.305, 784.074, 806.13, 921.0022, 985.03, 985.04, 985.231, 985.315, and 985.3155, F.S.; reenacting and amending ss. 320.64 and 402.73(5), F.S.; reenacting ss. 320.27(9), 409.9117(2), 458.347(7), 550.2625(7), 582.18(1), 658.26, and 766.1115(4), F.S.; and repealing ss. 15.18(5), 288.99(8)(e), 381.895(7), 450.211(10), 468.721, 624.408(1)(b)1., 627.072(4)(b)4., 627.192(11), 627.211(4), 627.311(4)(o), 697.20, 697.201, 697.202, 697.204, 697.205, and 697.206, 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which have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and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. Paragraph (a) of subsection (3) and subsection (5) of section 11.45, Florida Statutes, are amended to read:

11.45 Definitions; duties; authorities; reports; rules.—

(3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—

(a) The Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements as determined appropriate by the Auditor General of:

1. The accounts and records of any governmental entity created or established by law.

2. The information technology programs, activities, functions, or systems of any governmental entity created or established by law.

3. The accounts and records of any charter school created or established by law.

4. The accounts and records of any direct-support organization or citizen support organization created or established by law. The Auditor General is authorized to require and receive any records from the direct-support organization or citizen support organization, or from its independent auditor.

5. The public records associated with any appropriation made by the General Appropriations Act to a nongovernmental agency, corporation, or person. All records of a nongovernmental agency, corporation, or person with respect to the receipt and expenditure of such an appropriation shall be public records and shall be treated in the same manner as other public records are under general law.

6. State financial assistance provided to any nonstate entity.

7. The Tobacco Settlement Financing Corporation created pursuant to s. 215.56005.

8. The Florida Virtual ~~On-Line~~ High School created pursuant to s. 228.082.

9. Any purchases of federal surplus lands for use as sites for correctional facilities as described in s. 253.037.

10. Enterprise Florida, Inc., including any of its boards, advisory committees, or similar groups created by Enterprise Florida, Inc., and programs. The audit report may not reveal the identity of any person who has anonymously made a donation to Enterprise Florida, Inc., pursuant to this subparagraph. The identity of a donor or prospective donor to Enterprise Florida, Inc., who desires to remain anonymous and all information identifying such donor or prospective donor are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such anonymity shall be maintained in the auditor's report.

11. The Florida Development Finance Corporation or the capital development board or the programs or entities created by the board. The audit or report may not reveal the identity of any person who has anonymously made a donation to the board pursuant to this subparagraph. The identity of a donor or prospective donor to the board who desires to remain anonymous and all information identifying such donor or prospective donor are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such anonymity shall be maintained in the auditor's report.

12. The records pertaining to the use of funds from voluntary contributions on a motor vehicle registration application or on a driver's license application authorized pursuant to ss. 320.023 and 322.081.

13. The records pertaining to the use of funds from the sale of specialty license plates described in chapter 320.

14. The transportation corporations under contract with the Department of Transportation that are acting on behalf of the state to secure and obtain rights-of-way for urgently needed transportation systems and to assist in the planning and design of such systems pursuant to ss. 339.401-339.421.

15. The acquisitions and divestitures related to the Florida Communities Trust Program created pursuant to chapter 380.

16. The Florida Water Pollution Control Financing Corporation created pursuant to s. 403.1837.

17. The Florida Partnership for School Readiness created pursuant to s. 411.01.

18. The Occupational Access and Opportunity Commission created pursuant to s. 413.83.

19. The Florida Special Disability Trust Fund Financing Corporation created pursuant to s. 440.49.

20. Workforce Florida, Inc., or the programs or entities created by Workforce Florida, Inc., created pursuant to s. 445.004.

21. The corporation defined in s. 455.32 that is under contract with the Department of Business and Professional Regulation to provide administrative, investigative, examination, licensing, and prosecutorial support services in accordance with the provisions of s. 455.32 and the practice act of the relevant profession.

22. The Florida Engineers Management Corporation created pursuant to chapter 471.

23. The Investment Fraud Restoration Financing Corporation created pursuant to chapter 517.

24. The books and records of any permitholder that conducts race meetings or jai alai exhibitions under chapter 550.

25. The corporation defined in part II of chapter 946, known as the Prison Rehabilitative Industries and Diversified Enterprises, Inc., or PRIDE Enterprises.

(5) PETITION FOR AN AUDIT BY THE AUDITOR GENERAL.—The Legislative Auditing Committee shall direct the Auditor General to make a financial audit of any municipality whenever petitioned to do so by at least 20 percent of the electors of that municipality. The supervisor of elections of the county in which the municipality is located shall certify whether or not the petition contains the signatures of at least 20 percent of the electors of the municipality. After the completion of the audit, the Auditor General shall determine whether the municipality has the fiscal resources necessary to pay the cost of the audit. The municipality shall pay the cost of the audit within 90 days after the Auditor General's determination that the municipality has the available resources. If the municipality fails to pay the cost of the audit, the Department of Revenue shall, upon certification of the

Auditor General, withhold from that portion of the distribution pursuant to s. 212.20(6)(d)6. ~~212.20(6)(e)6.~~ which is distributable to such municipality, a sum sufficient to pay the cost of the audit and shall deposit that sum into the General Revenue Fund of the state.

Reviser's note.—Paragraph (3)(a) is amended to conform to the redesignation of the Florida On-Line High School as the Florida Virtual High School by s. 28, ch. 2001-170, Laws of Florida. Subsection (5) is amended to conform to the redesignation of s. 212.20(6)(e)6. as s. 212.20(6)(d)6. by s. 29, ch. 2001-140, Laws of Florida.

Section 2. Subsection (2) of section 14.203, Florida Statutes, as created by s. 50, ch. 94-249, Laws of Florida, and amended by s. 4, ch. 97-79, Laws of Florida, is amended to read:

14.203 State Council on Competitive Government.—It is the policy of this state that all state services be performed in the most effective and efficient manner in order to provide the best value to the citizens of the state. The state also recognizes that competition among service providers may improve the quality of services provided, and that competition, innovation, and creativity among service providers should be encouraged.

(2) There is hereby created the State Council on Competitive Government, which shall be composed of the Governor and Cabinet, sitting as the Administration Commission as defined in s. 14.202. The council, on its own initiative, or the Office of Program Policy Analysis and Government Accountability, created pursuant to s. 11.51, ~~or the Commission on Government Accountability to the People, created pursuant to s. 286.30,~~ may identify commercial activities currently being performed by state agencies and, if it is determined that such services may be better provided by requiring competition with private sources or other state agency service providers, may recommend that a state agency engage in any process, including competitive bidding, that creates competition with private sources or other state agency service providers.

Reviser's note.—Amended to conform to the repeal of s. 286.30, which created the Commission on Government Accountability to the People, by s. 25, ch. 2001-89, Laws of Florida.

Section 3. Subsection (4) of section 14.29, Florida Statutes, is amended to read:

14.29 Florida Commission on Community Service.—

(4) Members of the commission shall serve for terms of 3 years~~, except that of those voting members initially appointed, no less than five and up to eight shall serve for terms of 1 year and no less than five and up to eight shall serve for terms of 2 years~~. Members may be reappointed for successive terms. A vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

Reviser's note.—Amended to delete obsolete language relating to initial terms of membership.

Section 4. Subsection (6) of section 15.091, Florida Statutes, is amended to read:

15.091 Processing fees; filing under chapter 679, Uniform Commercial Code.—The nonrefundable processing fees for filing of any financing statement or other writing required or permitted to be filed by any provision of chapter 679 of the Uniform Commercial Code are:

(6) For use, pursuant to s. 679.525(1)(d) ~~679.402(8)~~, of a nonapproved form, $5.

Reviser's note.—Amended to conform to the repeal of s. 679.402(8) by s. 4, ch. 2001-198, Laws of Florida, and creation of a new provision for a fee for use of nonapproved forms in s. 679.525(1)(d) by s. 6, ch. 2001-198.

Section 5. Subsection (5) of section 15.18, Florida Statutes, is repealed.

Reviser's note.—The cited subsection relates to the requirement to maintain a list relating to recognition of foreign money judgments that was deleted from s. 55.605(2)(g) by s. 11, ch. 2001-154, Laws of Florida.

Section 6. Paragraph (c) of subsection (2) of section 20.171, Florida Statutes, is amended to read:

20.171 Department of Labor and Employment Security.—There is created a Department of Labor and Employment Security. The department shall operate its programs in a decentralized fashion.

(2)

(c) The managers of all divisions and offices specifically named in this section and the directors of the five field offices are exempt from part II of chapter 110 and are included in the Senior Management Service in accordance with s. 110.205(2)(j) ~~110.205(2)(i)~~. No other assistant secretaries or senior management positions at or above the division level, except those established in chapter 110, may be created without specific legislative authority.

Reviser's note.—Amended to conform to the redesignation of s. 110.205(2)(i) as s. 110.205(2)(j) by s. 2, ch. 2001-261, Laws of Florida.

Section 7. Subsection (5) of section 20.23, Florida Statutes, is amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(5) Notwithstanding the provisions of s. 110.205, the Department of Management Services is authorized to exempt positions within the Department of Transportation which are comparable to positions within the Senior Management Service pursuant to s. 110.205(2)(j) ~~110.205(2)(i)~~ or positions which are comparable to positions in the Selected Exempt Service under s. 110.205(2)(m) ~~110.205(2)(l)~~.

Reviser's note.—Amended to conform to the redesignation of s. 110.205(2)(i) as s. 110.205(2)(j) and the redesignation of s. 110.205(2)(l) as s. 110.205(2)(m) by s. 2, ch. 2001-261, Laws of Florida.

Section 8. Subsections (2) and (7) of section 20.255, Florida Statutes, are amended to read:

20.255 Department of Environmental Protection.—There is created a Department of Environmental Protection.

(2)(a) There shall be three deputy secretaries who are to be appointed by and shall serve at the pleasure of the secretary. The secretary may assign any deputy secretary the responsibility to supervise, coordinate, and formulate policy for any division, office, or district. The following special offices are established and headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary:

1. Office of Chief of Staff,

2. Office of General Counsel,

3. Office of Inspector General,

4. Office of External Affairs,

5. Office of Legislative and Government Affairs, and

6. Office of Greenways and Trails.

(b) There shall be six administrative districts involved in regulatory matters of waste management, water resource management, wetlands, and air resources, which shall be headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary. Divisions of the department may have one assistant or two deputy division directors, as required to facilitate effective operation.

The managers of all divisions and offices specifically named in this section and the directors of the six administrative districts are exempt from part II of chapter 110 and are included in the Senior Management Service in accordance with s. 110.205(2)(j) ~~110.205(2)(i)~~.

(7) There is created as a part of the Department of Environmental Protection an Environmental Regulation Commission. The commission shall be composed of seven residents of this state appointed by the Governor, subject to confirmation by the Senate. In making appointments, the Governor shall provide reasonable representation from all sections of the state. Membership shall be representative of agriculture, the development industry, local government, the environmental community, lay citizens, and members of the scientific and technical community who have substantial expertise in the areas of the fate and transport of water pollutants, toxicology, epidemiology, geology, biology, environmental sciences, or engineering. The Governor shall appoint the chair, and the vice chair shall be elected from among the membership. ~~The members serving on the commission on July 1, 1995, shall~~

~~continue to serve on the commission for the remainder of their current terms.~~ All appointments ~~thereafter~~ shall ~~continue to~~ be for 4-year terms. The Governor may at any time fill a vacancy for the unexpired term. The members of the commission shall serve without compensation, but shall be paid travel and per diem as provided in s. 112.061 while in the performance of their official duties. Administrative, personnel, and other support services necessary for the commission shall be furnished by the department.

Reviser's note.—Subsection (2) is amended to conform to the redesignation of s. 110.205(2)(i) as s. 110.205(2)(j) by s. 2, ch. 2001-261, Laws of Florida. Subsection (7) is amended to delete obsolete language relating to initial terms of membership.

Section 9. Subsection (1) of section 20.41, Florida Statutes, is amended to read:

20.41 Department of Elderly Affairs.—There is created a Department of Elderly Affairs.

(1) The head of the department is the Secretary of Elderly Affairs. The secretary must be appointed by the Governor, subject to confirmation by the Senate. ~~The requirement for Senate confirmation applies to any person so appointed on or after July 1, 1994.~~ The secretary serves at the pleasure of the Governor. The secretary shall administer the affairs of the department and may employ assistants, professional staff, and other employees as necessary to discharge the powers and duties of the department.

Reviser's note.—Amended to delete obsolete language.

Section 10. Paragraphs (a) and (c) of subsection (1) of section 20.435, Florida Statutes, are amended to read:

20.435 Department of Health; trust funds.—

(1) The following trust funds are hereby created, to be administered by the Department of Health:

(a) Administrative Trust Fund.

1. Funds to be credited to the trust fund shall consist of regulatory fees such as those pertaining to the licensing, permitting, and inspection of septic tanks, food hygiene, onsite sewage, Superfund ~~Super Act~~ compliance, solid waste management, tanning facilities, mobile home and recreational vehicle park inspection, other departmental regulatory and health care programs, and indirect earnings from grants. Funds shall be used for the purpose of supporting the regulatory activities of the department and for other such purposes as may be appropriate and shall be expended only pursuant to legislative appropriation or an approved amendment to the department's operating budget pursuant to the provisions of chapter 216.

2. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purposes of the trust fund.

(c) Grants and Donations Trust Fund.

1. Funds to be credited to the trust fund shall consist of restricted contractual revenue from public or private sources such as receipts from Medicaid, funds from federal environmental laws such as the Safe Drinking Water Act and the Superfund ~~Super Act~~, funds from other health and environmental programs, and funds from private sources such as foundations. Funds shall be used for the purpose of supporting the activities of the department and shall be expended only pursuant to legislative appropriation or an approved amendment to the department's operating budget pursuant to the provisions of chapter 216.

2. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purposes of the trust fund.

Reviser's note.—Amended to provide consistent terminology with federal law.

Section 11. Section 27.015, Florida Statutes, is amended to read:

27.015 Private practice prohibited.—All state attorneys elected to said office ~~after November 1, 1970,~~ shall be so elected on a full-time basis and shall be prohibited from the private practice of law while holding said office.

Reviser's note.—Amended to delete obsolete language.

Section 12. Subsection (3) of section 27.345, Florida Statutes, is amended to read:

27.345 State Attorney RICO Trust Fund; authorized use of funds; reporting.—

(3) Each state attorney shall report to the Executive Office of the Governor annually by November 15~~, commencing in 1985,~~ the amounts recovered pursuant to this section for the previous fiscal year.

Reviser's note.—Amended to delete obsolete language.

Section 13. Paragraph (e) of subsection (1) of section 27.709, Florida Statutes, is amended to read:

27.709 Commission on Capital Cases.—

(1)

(e) ~~The initial members of the commission must be appointed on or before October 1, 1997.~~ Members of the commission shall be appointed to serve terms of 4 years each, except that a member's term shall expire upon leaving office as a member of the Senate or the House of Representatives. ~~Two of the initial members, one from the Senate and one from the House of Representatives, shall be appointed for terms of 2 years each. Two of the initial members, one from the Senate and one from the House of Representatives, shall be appointed for terms of 3 years each.~~

Reviser's note.—Amended to delete obsolete language relating to initial terms of membership.

Section 14. Subsection (10) of section 39.01, Florida Statutes, is amended to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(10) "Caregiver" means the parent, legal custodian, adult household member, or other person responsible for a child's welfare as defined in subsection (47) ~~(48)~~.

Reviser's note.—Amended to conform to the redesignation of subsection (48) as subsection (47) by s. 15, ch. 2000-139, Laws of Florida.

Section 15. Subsection (5) of section 83.806, Florida Statutes, is amended to read:

83.806 Enforcement of lien.—An owner's lien as provided in s. 83.805 may be satisfied as follows:

(5) Any sale or other disposition of the personal property shall conform to the terms of the notification as provided for in this section and shall be conducted in a commercially reasonable manner, as that term is used in s. 679.610 ~~679.504(3)~~.

Reviser's note.—Amended to conform to the repeal of s. 679.504(3), by s. 6, ch. 2001-198, Laws of Florida, and the creation of s. 679.610, relating to similar subject matter, by s. 7, ch. 2001-198.

Section 16. Subsection (4) of section 101.27, Florida Statutes, is amended to read:

101.27 Voting machine ballots.—

(4) If the official ballot is longer than the voting machine can accommodate, paper ballots may be used in conjunction with a voting machine, in which case the order of the offices on the voting machine ballot shall be the same as prescribed in s. 101.151(2) ~~ss. 101.141(4) and 101.151(3)~~. Where the machine ballot is filled in this order, there shall be a continuation of the ballot in the same order on paper ballots, except that no state or federal opposed officer shall be placed upon a paper ballot. In any primary election, if the official ballot is longer than the voting machine can accommodate, paper ballots may be used in conjunction with a voting machine~~, in which case the order of the offices on the voting machine ballot shall be the same as prescribed in s. 101.141(4), except that no portion of a category of candidates as established in s. 101.141(4) shall be divided between the voting machine ballot and the paper ballot~~. In the event a category of candidates must be removed from the voting machine ballot because of the foregoing provision, the supervisor of elections in such county may complete the balance of the voting machine ballot with some whole portion of another category of candidates out of its proper sequence, except that no state or federal office shall be placed upon a paper ballot.

Reviser's note.—Amended to conform to the repeal of s. 101.141(4) by s. 32, ch. 2001-40, Laws of Florida, and to the redesignation of s. 101.151(3) as s. 101.151(2) by s. 7, ch. 2001-40.

Section 17. Paragraph (b) of subsection (4) of section 110.123, Florida Statutes, is amended to read:

110.123 State group insurance program.—

(4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE; LIMITATION ON ACTIONS TO PAY AND COLLECT PREMIUMS.—

(b) If a state officer or full-time state employee selects membership in a health maintenance organization as authorized by paragraph (3)(h) ~~(3)(g)~~, the officer or employee is entitled to a state contribution toward individual and dependent membership as provided by the Legislature through the appropriations act.

Reviser's note.—Amended to conform to the redesignation of paragraph (3)(g) as (3)(h) by s. 1, ch. 2001-192, Laws of Florida.

Section 18. Subsection (2) of section 110.191, Florida Statutes, is amended to read:

110.191 State employee leasing.—

(2) Positions which are in the Senior Management Service System or the Selected Exempt Service System on the day before the state employee lease agreement takes effect shall remain in the respective system if the duties performed by the position during the assignment of the state employee lease agreement are comparable as determined by the department. Those Senior Management Service System or Selected Exempt Service System positions which are not determined comparable by the department and positions which are in other pay plans on the day before the lease agreement takes effect shall have the same salaries and benefits provided to employees of the Office of the Governor pursuant to s. 110.205(2)(l)2 ~~110.205(2)(k)2~~.

Reviser's note.—Amended to conform to the redesignation of s. 110.205(2)(k)2. as s. 110.205(2)(l)2. by s. 2, ch. 2001-261, Laws of Florida.

Section 19. Paragraph (x) of subsection (2) of section 110.205, Florida Statutes, is amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions that are not covered by this part include the following:

(x) ~~Effective July 1, 2001,~~ Managerial employees, as defined in s. 447.203(4), confidential employees, as defined in s. 447.203(5), and supervisory employees who spend the majority of their time communicating with, motivating, training, and evaluating employees, and planning and directing employees' work, and who have the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline subordinate

employees or effectively recommend such action, including all employees serving as supervisors, administrators, and directors. Excluded are employees also designated as special risk or special risk administrative support and attorneys who serve as administrative law judges pursuant to s. 120.65 or for hearings conducted pursuant to s. 120.57(1)(a). Additionally, registered nurses licensed under chapter 464, dentists licensed under chapter 466, psychologists licensed under chapter 490 or chapter 491, nutritionists or dietitians licensed under part X of chapter 468, pharmacists licensed under chapter 465, psychological specialists licensed under chapter 491, physical therapists licensed under chapter 486, and speech therapists licensed under part I of chapter 468 are excluded, unless otherwise collectively bargained.

Reviser's note.—Amended to delete a provision that has served its purpose and to improve clarity.

Section 20. Subsection (14) of section 112.313, Florida Statutes, is amended to read:

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.—

(14) LOBBYING BY FORMER LOCAL OFFICERS; PROHIBITION.—A person who has been elected to any county, municipal, special district, or school district office may not personally represent another person or entity for compensation before the governing body of which the person was an officer for a period of 2 years after vacating that office. ~~The provisions of this subsection shall not apply to elected officers holding office as of October 1, 1992, until after their next election, and shall not apply to elected officers of school districts holding office on January 1, 1995, until after their next election.~~

Reviser's note.—Amended to delete language that has served its purpose.

Section 21. Paragraph (e) of subsection (6) of section 121.052, Florida Statutes, is amended to read:

121.052 Membership class of elected officers.—

(6) DUAL EMPLOYMENT.—A member may not participate in more than one state-administered retirement system, plan, or class of membership simultaneously. If an elected officer becomes dually employed, or if a member becomes dually employed as an elected officer, such officer shall have 6 months to elect membership from among the plans or classes for which he or she is eligible, as set forth in this subsection. Failure to make election during the prescribed period shall result in compulsory membership in the Elected Officers' Class.

(e) Where a former elected officer purchasing additional retirement credit under former subparagraph (5)(b)2. was dually employed, employee and employer contributions paid for service in the position not covered by the Elected Officers' Class shall be refunded to the employee and employer, as applicable, and no salaries earned in a class other than the Elected Officers' Class shall apply toward the officer's average final compensation.

Reviser's note.—Amended to conform to the deletion of former subparagraph (5)(b)2. by s. 3, ch. 97-180, Laws of Florida.

Section 22. Subsection (1) of section 121.22, Florida Statutes, is amended to read:

121.22 State Retirement Commission; creation; membership; compensation.—

(1) There is created within the Department of Management Services a State Retirement Commission composed of three members: One member who is retired under a state-supported retirement system administered by the department; one member who is an active member of a state-supported retirement system that is administered by the department; and one member who is neither a retiree, beneficiary, or member of a state-supported retirement system ~~is~~ administered by the department. Each member shall have a different occupational background from the other members.

Reviser's note.—Amended to improve clarity.

Section 23. Section 159.39, Florida Statutes, is amended to read:

159.39 Negotiability of bonds.—All bonds issued under the provisions of this part, regardless of form or terms, are hereby declared to have all the qualities and incidents, including negotiability, of investment securities under the Uniform Commercial Code of the state. Compliance with the provisions of the code respecting the filing of a financing statement to perfect a security interest shall not be deemed necessary for perfecting any security interest granted by a local agency in connection with the issuance of any such bonds; nevertheless, and notwithstanding s. 679.1091(4)(n) ~~679.104(5)~~, financing statements with respect to such security interests may be filed pursuant to the applicable provisions of the code to further evidence the grant and perfection of such security interests.

Reviser's note.—Amended to conform to the repeal of s. 679.104(5), and the creation of s. 679.1091(4)(n) containing similar material, by s. 1, ch. 2001-198, Laws of Florida.

Section 24. Paragraph (d) of subsection (11) of section 163.3177, Florida Statutes, is amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(11)

(d)1. The department, in cooperation with the Department of Agriculture and Consumer Services, shall provide assistance to local governments in the implementation of this paragraph and rule 9J-5.006(5)(l), Florida Administrative Code. Implementation of those provisions shall include a process by which the department may authorize up to five local governments to designate all or portions of lands classified in the future land use element as predominantly agricultural, rural, open, open-rural, or a substantively

equivalent land use, as a rural land stewardship area within which planning and economic incentives are applied to encourage the implementation of innovative and flexible planning and development strategies and creative land use planning techniques, including those contained in rule 9J-5.006(5)(l), Florida Administrative Code.

2. The department shall encourage participation by local governments of different sizes and rural characteristics. It is the intent of the Legislature that rural land stewardship areas be used to further the following broad principles of rural sustainability: restoration and maintenance of the economic value of rural land; control of urban sprawl; identification and protection of ecosystems, habitats, and natural resources; promotion of rural economic activity; maintenance of the viability of Florida's agricultural economy; and protection of the character of rural areas of Florida.

3. A local government may apply to the department in writing requesting consideration for authorization to designate a rural land stewardship area and shall describe its reasons for applying for the authorization with supporting documentation regarding its compliance with criteria set forth in this section.

4. In selecting a local government, the department shall, by written agreement:

a. Ensure that the local government has expressed its intent to designate a rural land stewardship area pursuant to the provisions of this subsection and clarify that the rural land stewardship area is intended.

b. Ensure that the local government has the financial and administrative capabilities to implement a rural land stewardship area.

5. The written agreement shall include the basis for the authorization and provide criteria for evaluating the success of the authorization including the extent the rural land stewardship area enhances rural land values; control urban sprawl; provides necessary open space for agriculture and protection of the natural environment; promotes rural economic activity; and maintains rural character and the economic viability of agriculture. The department may terminate the agreement at any time if it determines that the local government is not meeting the terms of the agreement.

6. A rural land stewardship area shall be not less than 50,000 acres and shall not exceed 250,000 acres in size, shall be located outside of municipalities and established urban growth boundaries, and shall be designated by plan amendment. The plan amendment designating a rural land stewardship area shall be subject to review by the Department of Community Affairs pursuant to s. 163.3184 and shall provide for the following:

a. Criteria for the designation of receiving areas within rural land stewardship areas in which innovative planning and development strategies may be applied. Criteria shall at a minimum provide for the following: adequacy of suitable land to accommodate development so as to avoid conflict with environmentally sensitive areas, resources, and habitats; compatibility between and transition from higher density uses to lower intensity rural uses;

the establishment of receiving area service boundaries which provide for a separation between receiving areas and other land uses within the rural land stewardship area through limitations on the extension of services; and connection of receiving areas with the rest of the rural land stewardship area using rural design and rural road corridors.

b. Goals, objectives, and policies setting forth the innovative planning and development strategies to be applied within rural land stewardship areas pursuant to the provisions of this section.

c. A process for the implementation of innovative planning and development strategies within the rural land stewardship area, including those described in this subsection and rule 9J-5.006(5)(l), Florida Administrative Code, which provide for a functional mix of land uses and which are applied through the adoption by the local government of zoning and land development regulations applicable to the rural land stewardship area.

d. A process which encourages visioning pursuant to s. 163.3167(11) to ensure that innovative planning and development strategies comply with the provisions of this section.

e. The control of sprawl through the use of innovative strategies and creative land use techniques consistent with the provisions of this subsection and rule ~~rural~~ 9J-5.006(5)(l), Florida Administrative Code.

7. A receiving area shall be designated by the adoption of a land development regulation. Prior to the designation of a receiving area, the local government shall provide the Department of Community Affairs a period of 30 days in which to review a proposed receiving area for consistency with the rural land stewardship area plan amendment and to provide comments to the local government.

8. Upon the adoption of a plan amendment creating a rural land stewardship area, the local government shall, by ordinance, assign to the area a certain number of credits, to be known as "transferable rural land use credits," which shall not constitute a right to develop land, nor increase density of land, except as provided by this section. The total amount of transferable rural land use credits assigned to the rural land stewardship area must correspond to the 25-year or greater projected population of the rural land stewardship area. Transferable rural land use credits are subject to the following limitations:

a. Transferable rural land use credits may only exist within a rural land stewardship area.

b. Transferable rural land use credits may only be used on lands designated as receiving areas and then solely for the purpose of implementing innovative planning and development strategies and creative land use planning techniques adopted by the local government pursuant to this section.

c. Transferable rural land use credits assigned to a parcel of land within a rural land stewardship area shall cease to exist if the parcel of land is removed from the rural land stewardship area by plan amendment.

d. Neither the creation of the rural land stewardship area by plan amendment nor the assignment of transferable rural land use credits by the local government shall operate to displace the underlying density of land uses assigned to a parcel of land within the rural land stewardship area; however, if transferable rural land use credits are transferred from a parcel for use within a designated receiving area, the underlying density assigned to the parcel of land shall cease to exist.

e. The underlying density on each parcel of land located within a rural land stewardship area shall not be increased or decreased by the local government, except as a result of the conveyance or use of transferable rural land use credits, as long as the parcel remains within the rural land stewardship area.

f. Transferable rural land use credits shall cease to exist on a parcel of land where the underlying density assigned to the parcel of land is utilized.

g. An increase in the density of use on a parcel of land located within a designated receiving area may occur only through the assignment or use of transferable rural land use credits and shall not require a plan amendment.

h. A change in the density of land use on parcels located within receiving areas shall be specified in a development order which reflects the total number of transferable rural land use credits assigned to the parcel of land and the infrastructure and support services necessary to provide for a functional mix of land uses corresponding to the plan of development.

i. Land within a rural land stewardship area may be removed from the rural land stewardship area through a plan amendment.

j. Transferable rural land use credits may be assigned at different ratios of credits per acre according to the land use remaining following the transfer of credits, with the highest number of credits per acre assigned to preserve environmentally valuable land and a lesser number of credits to be assigned to open space and agricultural land.

k. The use or conveyance of transferable rural land use credits must be recorded in the public records of the county in which the property is located as a covenant or restrictive easement running with the land in favor of the county and either the Department of Environmental Protection, Department of Agriculture and Consumer Services, a water management district, or a recognized statewide land trust.

9. Owners of land within rural land stewardship areas should be provided incentives to enter into rural land stewardship agreements, pursuant to existing law and rules adopted thereto, with state agencies, water management districts, and local governments to achieve mutually agreed upon conservation objectives. Such incentives may include, but not be limited to, the following:

a. Opportunity to accumulate transferable mitigation credits.

b. Extended permit agreements.

c. Opportunities for recreational leases and ecotourism.

d. Payment for specified land management services on publicly owned land, or property under covenant or restricted easement in favor of a public entity.

e. Option agreements for sale to government, in either fee or easement, upon achievement of conservation objectives.

10. The department shall report to the Legislature on an annual basis on the results of implementation of rural land stewardship areas authorized by the department, including successes and failures in achieving the intent of the Legislature as expressed in this paragraph. It is further the intent of the Legislature that the success of authorized rural land stewardship areas be substantiated before implemention occurs on a statewide basis.

Reviser's note.—Amended to facilitate correct interpretation.

Section 25. Subsection (1) of section 189.412, Florida Statutes, is amended to read:

189.412 Special District Information Program; duties and responsibilities.—The Special District Information Program of the Department of Community Affairs is created and has the following special duties:

(1) The collection and maintenance of special district compliance status reports from the Auditor General, the Department of Banking and Finance, the Division of Bond Finance of the State Board of Administration, the Department of Management Services, the Department of Revenue, and the Commission on Ethics for the reporting required in ss. 112.3144, 112.3145, 112.3148, 112.3149, 112.63, 200.068, 218.32, ~~218.34,~~ 218.38, 218.39, and 280.17 and chapter 121 and from state agencies administering programs that distribute money to special districts. The special district compliance status reports must consist of a list of special districts used in that state agency and a list of which special districts did not comply with the reporting statutorily required by that agency.

Reviser's note.—Amended to conform to the repeal of s. 218.34 by s. 149, ch. 2001-266, Laws of Florida.

Section 26. Subsection (6) of section 189.418, Florida Statutes, is amended to read:

189.418 Reports; budgets; audits.—

(6) All reports or information required to be filed with a local governing authority under ss. 189.416, 189.417, 218.32, and 218.39 and this section shall:

(a) When the local governing authority is a county, be filed with the clerk of the board of county commissioners.

(b) When the district is a multicounty district, be filed with the clerk of the county commission in each county.

(c) When the local governing authority is a municipality, be filed at the place designated by the municipal governing body.

Reviser's note.—Amended to facilitate correct interpretation.

Section 27. Section 196.1983, Florida Statutes, is amended to read:

196.1983 Charter school exemption from ad valorem taxes.—Any facility, or portion thereof, used to house a charter school whose charter has been approved by the sponsor and the governing board pursuant to s. 228.056(10) ~~228.056(9)~~ shall be exempt from ad valorem taxes. For leasehold properties, the landlord must certify by affidavit to the charter school that the lease payments shall be reduced to the extent of the exemption received. The owner of the property shall disclose to a charter school the full amount of the benefit derived from the exemption and the method for ensuring that the charter school receives such benefit. The charter school shall receive the full benefit derived from the exemption through either an annual or monthly credit to the charter school's lease payments.

Reviser's note.—Amended to conform to the redesignation of s. 228.056(9) as s. 228.056(10) by s. 12, ch. 2001-86, Laws of Florida.

Section 28. Paragraph (a) of subsection (1) of section 199.1055, Florida Statutes, is amended to read:

199.1055 Contaminated site rehabilitation tax credit.—

(1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

(a) A credit in the amount of 35 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites is allowed against any tax due for a taxable year under s. 199.032, less any credit allowed by former s. 220.68 for that year:

1. A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation under s. 376.3078(3);

2. A drycleaning-solvent-contaminated site at which cleanup is undertaken by the real property owner pursuant to s. 376.3078(11), if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3. A brownfield site in a designated brownfield area under s. 376.80.

Reviser's note.—Amended to conform to the repeal of s. 220.68 by s. 8, ch. 2000-157, Laws of Florida.

Section 29. Subsection (6) of section 201.15, Florida Statutes, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter shall be distributed as follows and shall be subject to the service charge imposed in s. 215.20(1), except that such service charge shall not be levied against any portion of taxes pledged to debt service on bonds to the

extent that the amount of the service charge is required to pay any amounts relating to the bonds:

(6) Two and twenty-eight hundredths percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the Invasive ~~Aquatic~~ Plant Control Trust Fund to carry out the purposes set forth in ss. 369.22 and 369.252.

Reviser's note.—Amended to conform to the redesignation of the Aquatic Plant Control Trust Fund as the Invasive Plant Control Trust Fund by s. 1, ch. 99-312, Laws of Florida.

Section 30. Paragraph (c) of subsection (2) of section 202.18, Florida Statutes, is amended to read:

202.18 Allocation and disposition of tax proceeds.—The proceeds of the communications services taxes remitted under this chapter shall be treated as follows:

(2) The proceeds of the taxes remitted under s. 202.12(1)(c) shall be divided as follows:

(c)1. During each calendar year, the remaining portion of such proceeds shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and shall be allocated in the same proportion as the allocation of total receipts of the half-cent sales tax under s. 218.61 and the emergency distribution under s. 218.65 in the prior state fiscal year. ~~However, during calendar year 2001, state fiscal year 2000-2001 proportions shall be used.~~

2. The proportion of the proceeds allocated based on the emergency distribution under s. 218.65 shall be distributed pursuant to s. 218.65.

3. In each calendar year, the proportion of the proceeds allocated based on the half-cent sales tax under s. 218.61 shall be allocated to each county in the same proportion as the county's percentage of total sales tax allocation for the prior state fiscal year and distributed pursuant to s. 218.62~~, except that for calendar year 2001, state fiscal year 2000-2001 proportions shall be used~~.

4. The department shall distribute the appropriate amount to each municipality and county each month at the same time that local communications services taxes are distributed pursuant to subsection (3).

Reviser's note.—Amended to delete obsolete language.

Section 31. Paragraph (b) of subsection (2) of section 202.20, Florida Statutes, is amended to read:

202.20 Local communications services tax conversion rates.—

(2)

(b) Except as otherwise provided in this subsection, "replaced revenue sources," as used in this section, means the following taxes, charges, fees,

or other impositions to the extent that the respective local taxing jurisdictions were authorized to impose them prior to July 1, 2000.

1. With respect to municipalities and charter counties and the taxes authorized by s. 202.19(1):

a. The public service tax on telecommunications authorized by former s. 166.231(9).

b. Franchise fees on cable service providers as authorized by 47 U.S.C. s. 542.

c. The public service tax on prepaid calling arrangements.

d. Franchise fees on dealers of communications services which use the public roads or rights-of-way, up to the limit set forth in s. 337.401. For purposes of calculating rates under this section, it is the legislative intent that charter counties be treated as having had the same authority as municipalities to impose franchise fees on recurring local telecommunication service revenues prior to July 1, 2000. However, the Legislature recognizes that the authority of charter counties to impose such fees is in dispute, and the treatment provided in this section is not an expression of legislative intent that charter counties actually do or do not possess such authority.

e. Actual permit fees relating to placing or maintaining facilities in or on public roads or rights-of-way, collected from providers of long-distance, cable, and mobile communications services for the fiscal year ending September 30, 1999; however, if a municipality or charter county elects the option to charge permit fees pursuant to s. 337.401(3)(c)1.a., such fees shall not be included as a replaced revenue source.

2. With respect to all other counties and the taxes authorized in s. 202.19(1), franchise fees on cable service providers as authorized by 47 U.S.C. s. 542.

Reviser's note.—Amended to conform to the repeal of s. 166.231(9) by s. 38, ch. 2000-260, Laws of Florida.

Section 32. Paragraph (a) of subsection (1) of section 202.37, Florida Statutes, is amended to read:

202.37 Special rules for administration of local communications services tax.—

(1)(a) Except as otherwise provided in this section, all statutory provisions and administrative rules applicable to the communications services tax imposed by s. 202.12 apply to any local communications services tax imposed under s. 202.19, and the department shall administer, collect, and enforce all taxes imposed under s. 202.19, including interest and penalties attributable thereto, in accordance with the same procedures used in the administration, collection, and enforcement of the communications services tax imposed by s. 202.12. Audits performed by the department shall include a determination of the dealer's compliance with the jurisdictional situsing

of its customers' service addresses and a determination of whether the rate collected for the local tax pursuant to ss. 202.19 and 202.20 is correct. The person or entity designated by a local government pursuant to s. 213.053(7)(v) ~~213.053(7)(u)~~ may provide evidence to the department demonstrating a specific person's failure to fully or correctly report taxable communications services sales within the jurisdiction. The department may request additional information from the designee to assist in any review. The department shall inform the designee of what action, if any, the department intends to take regarding the person.

Reviser's note.—Amended to conform to the redesignation of s. 213.053(7)(u) as created by s. 1, ch. 2001-139, Laws of Florida, as s. 213.053(7)(v) by the reviser incident to compiling the 2001 Florida Statutes.

Section 33. Subsection (3) of section 206.46, Florida Statutes, is amended to read:

206.46 State Transportation Trust Fund.—

(3) ~~Through fiscal year 1999-2000, a minimum of 14.3 percent of all state revenues deposited into the State Transportation Trust Fund shall be committed annually by the department for public transportation projects in accordance with chapter 311, ss. 332.003-332.007, chapter 341, and chapter 343. Beginning in fiscal year 2000-2001, and each year thereafter,~~ Each fiscal year, a minimum of 15 percent of all state revenues deposited into the State Transportation Trust Fund shall be committed annually by the department for public transportation projects in accordance with chapter 311, ss. 332.003-332.007, chapter 341, and chapter 343.

Reviser's note.—Amended to delete obsolete language.

Section 34. Subsection (2) of section 218.76, Florida Statutes, is amended to read:

218.76 Improper payment request or invoice; resolution of disputes.—

(2) In the event a dispute occurs between a vendor and a local governmental entity concerning payment of a payment request or an invoice, such disagreement shall be finally determined by the local governmental entity as provided in this section. Each local governmental entity shall establish a dispute resolution procedure to be followed by the local governmental entity in cases of such disputes. Such procedure shall provide that proceedings to resolve the dispute shall be commenced not later than 45 days after the date on which the payment request or proper invoice was received by the local governmental entity and shall be concluded by final decision of the local governmental entity not later than 60 days after the date on which the payment request or proper invoice was received by the local governmental entity. Such procedures shall not be subject to chapter 120, and such procedures shall not constitute an administrative proceeding which prohibits a court from deciding de novo any action arising out of the dispute. If the dispute is resolved in favor of the local governmental entity, then interest charges shall begin to accrue 15 days after the local governmental entity's

final decision. If the dispute is resolved in favor of the vendor, then interest shall begin to accrue as of the original date the payment became due.

Reviser's note.—Amended to facilitate correct interpretation.

Section 35. Subsections (7) and (9) of section 267.1732, Florida Statutes, are amended to read:

267.1732 Direct-support organization.—

(7) The direct-support organization shall provide for an annual financial and compliance audit of its financial accounts and records by an independent certified public accountant in accordance with s. 215.981 ~~251.981~~ and generally accepted accounting standards. The annual audit report must be submitted to the university for review and approval. The university, the Auditor General, and others authorized in s. 240.299 shall have the authority to require and receive from the direct-support organization, or from its independent auditor, any detail or supplemental data relative to the operation of the organization. Upon approval, the university shall certify the audit report to the Auditor General for review.

(9) Provisions governing direct-support organizations in s. 240.299 ~~240.99~~ and not provided in this section shall apply to the direct-support organization.

Reviser's note.—Subsection (7) is amended to correct an apparent error and to improve clarity and facilitate correct interpretation. Section 251.981 does not exist; s. 215.981 relates to audits of state agency direct-support organizations. Subsection (9) is amended to correct an apparent error. Section 240.99 does not exist; s. 240.299 relates to direct-support organizations.

Section 36. Subsection (8) of section 282.102, Florida Statutes, is amended to read:

282.102 Creation of the State Technology Office; powers and duties.—There is created a State Technology Office within the Department of Management Services. The office shall be a separate budget entity, and shall be headed by a Chief Information Officer who is appointed by the Governor and is in the Senior Management Service. The Chief Information Officer shall be an agency head for all purposes. The Department of Management Services shall provide administrative support and service to the office to the extent requested by the Chief Information Officer. The office may adopt policies and procedures regarding personnel, procurement, and transactions for State Technology Office personnel. The office shall have the following powers, duties, and functions:

(8) To enter into agreements related to information technology with state agencies and ~~of~~ political subdivisions of the state.

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

Section 37. Subsections (9), (13), and (17) of section 287.057, Florida Statutes, are amended to read:

287.057 Procurement of commodities or contractual services.—

(9) An agency shall not divide the procurement of commodities or contractual services so as to avoid the requirements of subsections (1), (2), and (4) ~~(3)~~.

(13) Except for those contracts initially procured pursuant to paragraph (4)(a) ~~(3)(a)~~ or paragraph (4)(c) ~~(3)(c)~~, contracts for commodities or contractual services may be renewed on a yearly basis for no more than 2 years or for a period no longer than the term of the original contract, whichever period is longer. Renewal of a contract for commodities or contractual services shall be in writing and shall be subject to the same terms and conditions set forth in the initial contract. If the commodity or contractual service is purchased as a result of the solicitation of bids or proposals, the cost of any contemplated renewals shall be included in the invitation to bid or request for proposals. Renewals shall be contingent upon satisfactory performance evaluations by the agency.

(17) No person who receives a contract which has not been procured pursuant to subsection (1), subsection (2), or subsection (4) ~~(3)~~ to perform a feasibility study of the potential implementation of a subsequent contract, participating in the drafting of an invitation to bid or request for proposals, or developing a program for future implementation shall be eligible to contract with the agency for any other contracts dealing with that specific subject matter; nor shall any firm in which such person has any interest be eligible to receive such contract.

Reviser's note.—Amended to conform to the internal renumbering of s. 287.057 by s. 4, ch. 2001-278, Laws of Florida.

Section 38. Subsection (3) of section 288.9604, Florida Statutes, is amended to read:

288.9604 Creation of the authority.—

(3) Upon activation of the corporation, the Governor, subject to confirmation by the Senate, shall appoint the board of directors of the corporation, who shall be five in number. The terms of office for the directors shall be for 4 years~~, except that three of the initial directors shall be designated to serve terms of 1, 2, and 3 years, respectively, from the date of their appointment, and all other directors shall be designated to serve terms of 4 years~~ from the date of their appointment. A vacancy occurring during a term shall be filled for the unexpired term. A director shall be eligible for reappointment. At least three of the directors of the corporation shall be bankers who have been selected by the Governor from a list of bankers who were nominated by Enterprise Florida, Inc., and one of the directors shall be an economic development specialist. The chairperson of the Florida Black Business Investment Board shall be an ex officio member of the board of the corporation.

Reviser's note.—Amended to delete obsolete language relating to initial terms of board members.

Section 39. Subsection (1) of section 288.9610, Florida Statutes, is amended to read:

288.9610 Annual reports of Florida Development Finance Corporation.—By December 1 of each year, the Florida Development Finance Corporation shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, the House Minority Leader, and the city or county activating the Florida Development Finance Corporation a complete and detailed report setting forth:

(1) The evaluation required in s. 11.45(3)(a)11 ~~288.9616(1)~~.

Reviser's note.—Amended to conform to the repeal of s. 288.9616 by s. 141, ch. 2001-266, Laws of Florida, and the enactment of a similar provision in s. 11.45(3)(a)11. by s. 15, ch. 2001-266.

Section 40. Paragraph (e) of subsection (8) of section 288.99, Florida Statutes, is repealed.

Reviser's note.—The cited paragraph, which provided a January 1, 1999, effective date for subsection (8), has served its purpose.

Section 41. Subsection (14) of section 316.515, Florida Statutes, is amended to read:

316.515 Maximum width, height, length.—

(14) MANUFACTURED BUILDINGS.—The Department of Transportation may, in its discretion and upon application and good cause shown therefor that the same is not contrary to the public interest, issue a special permit for truck tractor-semitrailer combinations where the total number of overwidth deliveries of manufactured buildings, as defined in s. 553.36(12) ~~553.36(11)~~, may be reduced by permitting the use of an overlength trailer of no more than 54 feet.

Reviser's note.—Amended to conform to the redesignation of s. 553.36(11) as s. 553.36(12) by s. 21, ch. 2001-186, Laws of Florida.

Section 42. Subsection (6) of section 318.21, Florida Statutes, as amended by section 11 of chapter 2001-122, Laws of Florida, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(6) For every violation of s. 316.613 or s. 316.614, $5 will be deducted from the civil penalty assessed under this chapter and remitted to the Department of Revenue for deposit in the Epilepsy Services Trust Fund established under s. 385.207. The remainder must be distributed pursuant to subsections (1) and (2).

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

Section 43. Paragraph (b) of subsection (14) of section 320.08058, Florida Statutes, is amended to read:

320.08058 Specialty license plates.—

(14) FLORIDA AGRICULTURAL LICENSE PLATES.—

(b) The proceeds of the Florida Agricultural license plate annual use fee must be forwarded to the direct-support organization created in s. 570.903 ~~570.912~~. The funds must be used for the sole purpose of funding and promoting the Florida agriculture in the classroom program established within the Department of Agriculture and Consumer Services pursuant to s. 570.91.

Reviser's note.—Amended to conform to the repeal of s. 570.912 by s. 141, ch. 2001-266, Laws of Florida, and the revision of the duties of the direct-support organization in s. 570.903 by s. 123, ch. 2001-266.

Section 44. Subsection (9) of section 320.27, Florida Statutes, is reenacted to read:

320.27 Motor vehicle dealers.—

(9) DENIAL, SUSPENSION, OR REVOCATION.—The department may deny, suspend, or revoke any license issued hereunder or under the provisions of s. 320.77 or s. 320.771, upon proof that a licensee has failed to comply with any of the following provisions with sufficient frequency so as to establish a pattern of wrongdoing on the part of the licensee:

(a) Willful violation of any other law of this state, including chapter 319, this chapter, or ss. 559.901-559.9221, which has to do with dealing in or repairing motor vehicles or mobile homes or willful failure to comply with any administrative rule promulgated by the department. Additionally, in the case of used motor vehicles, the willful violation of the federal law and rule in 15 U.S.C. s. 2304, 16 C.F.R. part 455, pertaining to the consumer sales window form.

(b) Commission of fraud or willful misrepresentation in application for or in obtaining a license.

(c) Perpetration of a fraud upon any person as a result of dealing in motor vehicles, including, without limitation, the misrepresentation to any person by the licensee of the licensee's relationship to any manufacturer, importer, or distributor.

(d) Representation that a demonstrator is a new motor vehicle, or the attempt to sell or the sale of a demonstrator as a new motor vehicle without written notice to the purchaser that the vehicle is a demonstrator. For the purposes of this section, a "demonstrator," a "new motor vehicle," and a "used motor vehicle" shall be defined as under s. 320.60.

(e) Unjustifiable refusal to comply with a licensee's responsibility under the terms of the new motor vehicle warranty issued by its respective manufacturer, distributor, or importer. However, if such refusal is at the direction of the manufacturer, distributor, or importer, such refusal shall not be a ground under this section.

(f) Misrepresentation or false, deceptive, or misleading statements with regard to the sale or financing of motor vehicles which any motor vehicle dealer has, or causes to have, advertised, printed, displayed, published, distributed, broadcast, televised, or made in any manner with regard to the sale or financing of motor vehicles.

(g) Requirement by any motor vehicle dealer that a customer or purchaser accept equipment on his or her motor vehicle which was not ordered by the customer or purchaser.

(h) Requirement by any motor vehicle dealer that any customer or purchaser finance a motor vehicle with a specific financial institution or company.

(i) Failure by any motor vehicle dealer to provide a customer or purchaser with an odometer disclosure statement and a copy of any bona fide written, executed sales contract or agreement of purchase connected with the purchase of the motor vehicle purchased by the customer or purchaser.

(j) Failure of any motor vehicle dealer to comply with the terms of any bona fide written, executed agreement, pursuant to the sale of a motor vehicle.

(k) Requirement by the motor vehicle dealer that the purchaser of a motor vehicle contract with the dealer for physical damage insurance.

(l) Violation of any of the provisions of s. 319.35 by any motor vehicle dealer.

(m) Either a history of bad credit or an unfavorable credit rating as revealed by the applicant's official credit report or by investigation by the department.

(n) Failure to apply for transfer of a title as prescribed in s. 319.23(6).

(o) Use of the dealer license identification number by any person other than the licensed dealer or his or her designee.

(p) Conviction of a felony.

(q) Failure to continually meet the requirements of the licensure law.

(r) When a motor vehicle dealer is convicted of a crime which results in his or her being prohibited from continuing in that capacity, the dealer may not continue in any capacity within the industry. The offender shall have no financial interest, management, sales, or other role in the operation of a dealership. Further, the offender may not derive income from the dealership beyond reasonable compensation for the sale of his or her ownership interest in the business.

(s) Representation to a customer or any advertisement to the general public representing or suggesting that a motor vehicle is a new motor vehicle if such vehicle lawfully cannot be titled in the name of the customer or other

member of the general public by the seller using a manufacturer's statement of origin as permitted in s. 319.23(1).

(t) Failure to honor a bank draft or check given to a motor vehicle dealer for the purchase of a motor vehicle by another motor vehicle dealer within 10 days after notification that the bank draft or check has been dishonored. A single violation of this paragraph is sufficient for revocation or suspension. If the transaction is disputed, the maker of the bank draft or check shall post a bond in accordance with the provisions of s. 559.917, and no proceeding for revocation or suspension shall be commenced until the dispute is resolved.

(u) Sale by a motor vehicle dealer of a vehicle offered in trade by a customer prior to consummation of the sale, exchange, or transfer of a newly acquired vehicle to the customer, unless the customer provides written authorization for the sale of the trade-in vehicle prior to delivery of the newly acquired vehicle.

Reviser's note.—Section 40, ch. 2001-196, Laws of Florida, purported to amend subsection (9) but did not publish the amended subsection. Absent affirmative evidence of legislative intent to repeal it, subsection (9) is reenacted to confirm that the omission was not intended.

Section 45. Section 320.64, Florida Statutes, is reenacted and subsection (22) of that section is amended to read:

320.64 Denial, suspension, or revocation of license; grounds.—A license of a licensee under s. 320.61 may be denied, suspended, or revoked within the entire state or at any specific location or locations within the state at which the applicant or licensee engages or proposes to engage in business, upon proof that the section was violated with sufficient frequency to establish a pattern of wrongdoing, and a licensee or applicant shall be liable for claims and remedies provided in ss. 320.695 and 320.697 for any violation of any of the following provisions. A licensee is prohibited from committing the following acts:

(1) The applicant or licensee is determined to be unable to carry out contractual obligations with its motor vehicle dealers.

(2) The applicant or licensee has knowingly made a material misstatement in its application for a license.

(3) The applicant or licensee willfully has failed to comply with significant provisions of ss. 320.60-320.70 or with any lawful rule or regulation adopted or promulgated by the department.

(4) The applicant or licensee has indulged in any illegal act relating to his or her business.

(5) The applicant or licensee has coerced or attempted to coerce any motor vehicle dealer into accepting delivery of any motor vehicle or vehicles or parts or accessories therefor or any other commodities which have not been ordered by the dealer.

(6) The applicant or licensee has coerced or attempted to coerce any motor vehicle dealer to enter into any agreement with the licensee.

(7) The applicant or licensee has threatened to discontinue, cancel, or not to renew a franchise agreement of a licensed motor vehicle dealer, where the threatened discontinuation, cancellation, or nonrenewal, if implemented, would be in violation of any of the provisions of s. 320.641.

(8) The applicant or licensee discontinued, canceled, or failed to renew, a franchise agreement of a licensed motor vehicle dealer in violation of any of the provisions of s. 320.641.

(9) The applicant or licensee has threatened to modify or replace, or has modified or replaced, a franchise agreement with a succeeding franchise agreement which would adversely alter the rights or obligations of a motor vehicle dealer under an existing franchise agreement or which substantially impairs the sales, service obligations, or investment of the motor vehicle dealer.

(10) The applicant or licensee has attempted to enter, or has entered, into a franchise agreement with a motor vehicle dealer who does not, at the time of the franchise agreement, have proper facilities to provide the services to his or her purchasers of new motor vehicles which are covered by the new motor vehicle warranty issued by the applicant or licensee.

(11) The applicant or licensee has coerced a motor vehicle dealer to provide installment financing for the motor vehicle dealer's purchasers with a specified financial institution.

(12) The applicant or licensee has advertised, printed, displayed, published, distributed, broadcast, or televised, or caused or permitted to be advertised, printed, displayed, published, distributed, broadcast, or televised, in any manner whatsoever, any statement or representation with regard to the sale or financing of motor vehicles which is false, deceptive, or misleading.

(13) The applicant or licensee has sold, exchanged, or rented a motorcycle which produces in excess of 5 brake horsepower, knowing the use thereof to be by, or intended for, the holder of a restricted Florida driver's license.

(14) The applicant or licensee has engaged in previous conduct which would have been a ground for revocation or suspension of a license if the applicant or licensee had been licensed.

(15) The applicant or licensee, directly or indirectly, through the actions of any parent of the licensee, subsidiary of the licensee, or common entity causes a termination, cancellation, or nonrenewal of a franchise agreement by a present or previous distributor or importer unless, by the effective date of such action, the applicant or licensee offers the motor vehicle dealer whose franchise agreement is terminated, canceled, or not renewed a franchise agreement containing substantially the same provisions contained in the previous franchise agreement or files an affidavit with the department acknowledging its undertaking to assume and fulfill the rights, duties, and

obligations of its predecessor distributor or importer under the terminated, canceled, or nonrenewed franchise agreement and the same is reinstated.

(16) Notwithstanding the terms of any franchise agreement, the applicant or licensee prevents or refuses to accept the succession to any interest in a franchise agreement by any legal heir or devisee under the will of a motor vehicle dealer or under the laws of descent and distribution of this state; provided, the applicant or licensee is not required to accept a succession where such heir or devisee does not meet licensee's written, reasonable, and uniformly applied minimal standard qualifications for dealer applicants or which, after notice and administrative hearing pursuant to chapter 120, is demonstrated to be detrimental to the public interest or to the representation of the applicant or licensee. Nothing contained herein, however, shall prevent a motor vehicle dealer, during his or her lifetime, from designating any person as his or her successor in interest by written instrument filed with and accepted by the applicant or licensee. A licensee who rejects the successor transferee under this subsection shall have the burden of establishing in any proceeding where such rejection is in issue that the rejection of the successor transferee complies with this subsection.

(17) The applicant or licensee has included in any franchise agreement with a motor vehicle dealer terms or provisions that are contrary to, prohibited by, or otherwise inconsistent with the provisions contained in ss. 320.60-320.70, or has failed to include in such franchise agreement a provision conforming to the requirements of s. 320.63(3).

(18) The applicant or licensee has established a system of motor vehicle allocation or distribution or has implemented a system of allocation or distribution of motor vehicles to one or more of its franchised motor vehicle dealers which is unfair, inequitable, unreasonably discriminatory, or not supportable by reason and good cause after considering the equities of the affected motor vehicles dealer or dealers. An applicant or licensee shall maintain for 3 years records that describe its methods or formula of allocation and distribution of its motor vehicles and records of its actual allocation and distribution of motor vehicles to its motor vehicle dealers in this state.

(19) The applicant or licensee, without good and fair cause, has delayed, refused, or failed to provide a supply of motor vehicles by series in reasonable quantities, including the models publicly advertised by the applicant or licensee as being available, or has delayed, refused, or failed to deliver motor vehicle parts and accessories within a reasonable time after receipt of an order by a franchised dealer. However, this subsection is not violated if such failure is caused by acts or causes beyond the control of the applicant or licensee.

(20) The applicant or licensee has required, or threatened to require, a motor vehicle dealer to prospectively assent to a release, assignment, novation, waiver, or estoppel, which instrument or document operates, or is intended by the applicant or licensee to operate, to relieve any person from any liability or obligation under the provisions of ss. 320.60-320.70.

(21) The applicant or licensee has threatened or coerced a motor vehicle dealer toward conduct or action whereby the dealer would waive or forego

its right to protest the establishment or relocation of a motor vehicle dealer in the community or territory serviced by the threatened or coerced dealer.

(22) The applicant or licensee has refused to deliver, in reasonable quantities and within a reasonable time, to any duly licensed motor vehicle dealer who has an agreement with such applicant or licensee for the retail sale of new motor vehicles and parts for motor vehicles sold or distributed by the applicant or licensee, any such motor vehicles or parts as are covered by such agreement. Such refusal includes the failure to offer to its same line-make franchised motor vehicle dealers all models manufactured for that line-make, or requiring a dealer to pay any extra fee, require a dealer to execute a separate franchise agreement, purchase unreasonable advertising displays or other materials, or remodel, renovate, or recondition the dealer's existing facilities, or provide exclusive facilities as a prerequisite to receiving a model or series of vehicles. However, the failure to deliver any motor vehicle or part will not be considered a violation of this section if the failure is due to an act of God, work stoppage, or delay due to a strike or labor difficulty, a freight embargo, product shortage, or other cause over which the applicant or licensee has no control. An applicant or licensee may impose reasonable requirements on the motor vehicle dealer, other than the items listed above, including, but not limited to, the purchase of special tools required to properly service a motor vehicle and the undertaking of sales person or service person training related to the motor vehicle.

(23) The applicant or licensee has competed or is competing with respect to any activity covered by the franchise agreement with a motor vehicle dealer of the same line-make located in this state with whom the applicant or licensee has entered into a franchise agreement, except as permitted in s. 320.645.

(24) The applicant or licensee has sold a motor vehicle to any retail consumer in the state except through a motor vehicle dealer holding a franchise agreement for the line-make that includes the motor vehicle. This section does not apply to sales by the applicant or licensee of motor vehicles to its current employees, employees of companies affiliated by common ownership, charitable not-for-profit-organizations, and the federal government.

(25) The applicant or licensee has undertaken an audit of warranty payments or incentive payment previously paid to a motor vehicle dealer in violation of this section or has failed to comply with s. 320.696. An applicant or licensee may reasonably and periodically audit a motor vehicle dealer to determine the validity of paid claims. Audit of warranty payments shall only be for the 1-year period immediately following the date the claim was paid. Audit of incentive payments shall only be for an 18-month period immediately following the date the incentive was paid. An applicant or licensee shall not deny a claim or charge a motor vehicle dealer back subsequent to the payment of the claim unless the applicant or licensee can show that the claim was false or fraudulent or that the motor vehicle dealer failed to substantially comply with the reasonable written and uniformly applied procedures of the applicant or licensee for such repairs or incentives.

(26) Notwithstanding the terms of any franchise agreement, the applicant or licensee has refused to allocate, sell, or deliver motor vehicles;

charged back or withheld payments or other things of value for which the dealer is otherwise eligible under a sales promotion, program, or contest; or prevented the motor vehicle dealer from participating in any promotion, program, or contest for selling a motor vehicle to a customer who was present at the dealership and the motor vehicle dealer did not know or should not have reasonably known that the vehicle would be shipped to a foreign country. There will be a rebuttable presumption that the dealer did not know or should not have reasonably known that the vehicle would be shipped to a foreign country if the vehicle is titled in one of the 50 United States.

(27) Notwithstanding the terms of any franchise agreement, the applicant or licensee has failed or refused to indemnify and hold harmless any motor vehicle dealer against any judgment for damages, or settlements agreed to by the applicant or licensee, including, without limitation, court costs and reasonable attorneys fees, arising out of complaints, claims, or lawsuits, including, without limitation, strict liability, negligence, misrepresentation, express or implied warranty, or revocation or rescission of acceptance of the sale of a motor vehicle, to the extent the judgment or settlement relates to the alleged negligent manufacture, design, or assembly of motor vehicles, parts, or accessories. Nothing herein shall obviate the licensee's obligations pursuant to chapter 681.

(28) The applicant or licensee has published, disclosed, or otherwise made available in any form information provided by a motor vehicle dealer with respect to sales prices of motor vehicles or profit per motor vehicle sold. Other confidential financial information provided by motor vehicle dealers shall not be published, disclosed, or otherwise made publicly available except in composite form. However, this information may be disclosed with the written consent of the dealer or in response to a subpoena or order of the department, a court or a lawful tribunal, or introduced into evidence in such a proceeding, after timely notice to an affected dealer.

(29) The applicant or licensee has failed to reimburse a motor vehicle dealer in full for the reasonable cost of providing a loaner vehicle to any customer who is having a vehicle serviced at the motor vehicle dealer, if a loaner is required by the applicant or licensee, or a loaner is expressly part of an applicant or licensee's customer satisfaction index or computation.

(30) The applicant or licensee has conducted or threatened to conduct any audit of a motor vehicle dealer in order to coerce or attempt to coerce the dealer to forego any rights granted to the dealer under ss. 320.60-320.70 or under the agreement between the licensee and the motor vehicle dealer. Nothing in this section shall prohibit an applicant or licensee from reasonably and periodically auditing a dealer to determine the validity of paid claims.

(31) From and after the effective date of enactment of this provision, the applicant or licensee has offered to any motor vehicle dealer a franchise agreement that:

(a) Requires that a motor vehicle dealer bring an administrative or legal action in a venue outside of this state;

(b) Requires that any arbitration, mediation, or other legal proceeding be conducted outside of this state; or

(c) Requires that a law of a state other than Florida be applied to any legal proceeding between a motor vehicle dealer and a licensee.

(32) Notwithstanding the terms of any franchise agreement, the applicant or licensee has rejected or withheld approval of any proposed transfer in violation of s. 320.643 or a proposed change of executive management in violation of s. 320.644.

A motor vehicle dealer who can demonstrate that a violation of, or failure to comply with, any of the preceding provisions by an applicant or licensee will or can adversely and pecuniarily affect the complaining dealer, shall be entitled to pursue all of the remedies, procedures, and rights of recovery available under ss. 320.695 and 320.697.

Reviser's note.—Section 21, ch. 2001-196, Laws of Florida, amended portions of s. 320.64 without publishing the flush left language at the end of the section. Absent affirmative evidence of legislative intent to repeal it, the flush left language is reenacted to confirm that the omission was not intended. Subsection (22) is amended to improve clarity.

Section 46. Subsection (4) of section 320.645, Florida Statutes, is amended to read:

320.645 Restriction upon ownership of dealership by licensee.—

(4) Nothing in this section shall prohibit a licensee-distributor as defined in s. 320.60(5) that is not a manufacturer, a division of a manufacturer, an entity that is controlled by a manufacturer, or a common entity of a manufacturer, and that is not owned, in whole or in part, directly or indirectly, by a manufacturer, as defined in s. 320.60(9), and that has owned and operated a motor vehicle dealership ~~dealer~~ in this state on or before July 1, 1996, other than a motor vehicle dealership ~~dealer~~ permitted by paragraph (1)(b), from receiving a license as defined in s. 320.27 while owning and operating a motor vehicle dealership that sells or services motor vehicles other than any line-make of motor vehicles distributed by the licensee-distributor.

Reviser's note.—Amended to provide contextual consistency and facilitate correct interpretation.

Section 47. Subsection (2) of section 322.095, Florida Statutes, is amended to read:

322.095 Traffic law and substance abuse education program for driver's license applicants.—

(2) The department shall contract for an independent evaluation of the courses~~, and shall provide documentation to the Legislature by October 1, 2000, measuring course effectiveness~~. Local DUI programs authorized under s. 316.193(5) and certified by the department or a driver improvement

school may offer a traffic law and substance abuse education course. However, prior to offering the course, the course provider must obtain certification from the department that the course complies with the requirements of this section. The course provider must offer the approved course at locations reasonably accessible to most applicants and must issue a certificate to those persons successfully completing the course.

Reviser's note.—Amended to delete obsolete language.

Section 48. Subsection (5) of section 327.301, Florida Statutes, is amended to read:

327.301 Written reports of accidents.—

(5) For the purposes of this section, a written report includes a report generated through the use of information technology resources as defined in s. 282.0041 ~~282.303~~.

Reviser's note.—Amended to conform to the redesignation of s. 282.303 as s. 282.0041 by s. 10, ch. 2001-261, Laws of Florida.

Section 49. Subsection (2) of section 339.2405, Florida Statutes, is amended to read:

339.2405 Florida Highway Beautification Council.—

(2) ~~The first chair of the council shall be designated by the Governor and shall serve as chair for 2 years.~~ Each ~~subsequent~~ chair shall be selected by the council members and shall serve a 2-year term.

Reviser's note.—Amended to delete obsolete language.

Section 50. Subsection (2) of section 349.03, Florida Statutes, is amended to read:

349.03 Jacksonville Transportation Authority.—

(2) The governing body of the authority shall consist of seven members. Three members shall be appointed by the Governor and confirmed by the Senate. Three members shall be appointed by the mayor of the City of Jacksonville subject to confirmation by the council of the City of Jacksonville. The seventh member shall be the district secretary of the Department of Transportation serving in the district that contains the City of Jacksonville. Except for the seventh member, members shall be residents and qualified electors of the City of Jacksonville. ~~The members of the authority holding office on July 1, 1979, shall continue in office until the expiration of their terms as if this section were not in effect, to ensure staggered terms, and their successors shall thereafter be appointed by either the mayor or the Governor, whoever appointed the retiring member.~~

Reviser's note.—Amended to delete obsolete language.

Section 51. Subsection (3) of section 370.0603, Florida Statutes, is amended to read:

370.0603 Marine Resources Conservation Trust Fund; purposes.—

(3) Funds provided to the Marine Resources Conservation Trust Fund from taxes distributed under s. 201.15(11) ~~201.15(8)~~ shall be used for the following purposes:

(a) To reimburse the cost of activities authorized pursuant to the Fish and Wildlife Service of the United States Department of the Interior. Such facilities must be involved in the actual rescue and full-time acute care veterinarian-based rehabilitation of manatees. The cost of activities includes, but is not limited to, costs associated with expansion, capital outlay, repair, maintenance, and operation related to the rescue, treatment, stabilization, maintenance, release, and monitoring of manatees. Moneys distributed through the contractual agreement to each facility for manatee rehabilitation must be proportionate to the number of manatees under acute care rehabilitation; the number of maintenance days medically necessary in the facility; and the number released during the previous fiscal year. The commission may set a cap on the total amount reimbursed per manatee per year.

(b) For training on the care, treatment, and rehabilitation of marine mammals at the Whitney Laboratory and the College of Veterinary Medicine at the University of Florida.

(c) For program administration costs of the agency.

(d) Funds not distributed in any 1 fiscal year must be carried over for distribution in subsequent years.

Reviser's note.—Amended to conform to the redesignation of s. 201.15(8) as s. 201.15(11) by s. 2, ch. 99-247, Laws of Florida, effective July 1, 2001.

Section 52. Subsection (2) of section 373.042, Florida Statutes, is amended to read:

373.042 Minimum flows and levels.—

(2) ~~By July 1, 1996, the Southwest Florida Water Management District shall amend and submit to the department for review and approval its priority list for the establishment of minimum flows and levels and delineating the order in which the governing board shall establish the minimum flows and levels for surface watercourses, aquifers, and surface water in the counties of Hillsborough, Pasco, and Pinellas.~~ By November 15, 1997, and annually thereafter, each water management district shall submit to the department for review and approval a priority list and schedule for the establishment of minimum flows and levels for surface watercourses, aquifers, and surface waters within the district. The priority list shall also identify those water bodies for which the district will voluntarily undertake independent scientific peer review. By January 1, 1998, and annually thereafter, each water management district shall publish its approved priority list and schedule in the Florida Administrative Weekly. The priority list shall be based upon the importance of the waters to the state or region and the existence of or potential for significant harm to the water resources or ecology of the state or region, and shall include those waters which are

experiencing or may reasonably be expected to experience adverse impacts. The priority list and schedule shall not be subject to any proceeding pursuant to chapter 120. Except as provided in subsection (3), the development of a priority list and compliance with the schedule for the establishment of minimum flows and levels pursuant to this subsection shall satisfy the requirements of subsection (1).

Reviser's note.—Amended to delete a provision that has served its purpose.

Section 53. Subsection (4) of section 373.608, Florida Statutes, is amended to read:

373.608 Patents, copyrights, and trademarks.—Each district may, in its own name:

(4) Enforce the collection of any sums due to the district for the manufacture or use of such district work products by another ~~other~~ party.

Reviser's note.—Amended to improve clarity.

Section 54. Paragraph (a) of subsection (4) of section 381.6024, Florida Statutes, is amended to read:

381.6024 Fees; Florida Organ and Tissue Donor Education and Procurement Trust Fund.—

(4)(a) Proceeds from fees, administrative penalties, and surcharges collected pursuant to subsections (2) and (3) must be deposited into the Florida Organ and Tissue Donor Education and Procurement Trust Fund created by s. 765.52155 ~~732.92155~~.

Reviser's note.—Amended to conform to the transfer of s. 732.92155 to s. 765.52155 by s. 73, ch. 2001-226, Laws of Florida.

Section 55. Subsection (7) of section 381.895, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete a provision that has served its purpose.

Section 56. Subsection (1) of section 395.2050, Florida Statutes, is amended to read:

395.2050 Routine inquiry for organ and tissue donation; certification for procurement activities.—

(1) Every general hospital, and every specialty hospital that offers the range of medical services offered by a general hospital but only to a portion of the population restricted by age or gender, licensed under this chapter shall comply with the requirements of s. 765.522 ~~732.922~~ pertaining to requests for organ or tissue donation.

Reviser's note.—Amended to conform to the transfer of s. 732.922 to s. 765.522 by s. 75, ch. 2001-226, Laws of Florida.

Section 57. Subsection (4) of section 395.4045, Florida Statutes, is amended to read:

395.4045 Emergency medical service providers; trauma transport protocols; transport of trauma alert victims to trauma centers; interfacility transfer.—

(4) The department shall specify by rule the subjects and the minimum criteria related to prehospital trauma transport, trauma center or hospital destination determinations, and interfacility trauma transfer transport by an emergency medical services provider to be included in a trauma agency's or emergency medical service provider's trauma transport protocol and shall approve or disapprove each such protocol. Trauma transport protocol rules pertaining to the air transportation of trauma victims shall be consistent with, but not limited to, applicable Federal Aviation Administration regulation. Emergency medical services licensees and trauma agencies shall be subject to monitoring by the department, under ss. 395.401(3) and 401.31(1) ~~402.31(1)~~ for compliance with requirements, as applicable, regarding trauma transport protocols and the transport of trauma victims.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. Section 402.31 does not exist; s. 401.31(1) relates to monitoring of emergency medical services providers.

Section 58. Section 399.125, Florida Statutes, is amended to read:

399.125 Reporting of elevator accidents or incidents; penalties.—Within 5 working days after any accident or incident occurring in or upon any elevator, the certificate of operation holder shall report the accident or incident to the division on a form ~~forum~~ prescribed by the division. Failure to timely file this report is a violation of this chapter and will subject the certificate of operation holder to an administrative fine, to be imposed by the division, in an amount not to exceed $1,000.

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

Section 59. Subsection (5) of section 400.119, Florida Statutes, is amended to read:

400.119 Confidentiality of records and meetings of risk management and quality assurance committees.—

(5) This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2006, ~~October 1, 2006,~~ unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to correct an apparent error. Section 119.15(3)(a) requires repeal of exemptions from the Open Government Sunset Review Act of 1995 to be effective "on October 2nd of the 5th year" after enactment of the exemption. The enactment of s. 400.119, with its exemption, by s. 1, ch. 2001-44, Laws of Florida, erroneously provided a repeal date

of October 1, 2006. The correct date pursuant to s. 119.15(3) is October 2, 2006.

Section 60. Subsection (23) of section 400.141, Florida Statutes, is amended to read:

400.141 Administration and management of nursing home facilities.—Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(23) Assess all residents for eligibility for pneumococcal polysaccharide vaccination (PPV) and vaccinate residents when indicated within 60 days after the effective date of this act in accordance with the recommendations of the United States Centers for Disease Control and Prevention, subject to exemptions for medical contraindications and religious or personal beliefs. Residents admitted after the effective date of this act shall be assessed within 5 working days of admission and, when indicated, vaccinated within 60 days in accordance with the recommendations of the United States Centers for Disease Control and Prevention, subject to exemptions for medical contraindications ~~contradictions~~ and religious or personal beliefs. Immunization shall not be provided to any resident who provides documentation that he or she has been immunized as required by this subsection. This subsection does not prohibit a resident from receiving the immunization from his or her personal physician if he or she so chooses. A resident who chooses to receive the immunization from his or her personal physician shall provide proof of immunization to the facility. The agency may adopt and enforce any rules necessary to comply with or implement this subsection.

Facilities that have been awarded a Gold Seal under the program established in s. 400.235 may develop a plan to provide certified nursing assistant training as prescribed by federal regulations and state rules and may apply to the agency for approval of their program.

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

Section 61. Subsection (4) of section 400.426, Florida Statutes, is amended to read:

400.426 Appropriateness of placements; examinations of residents.—

(4) If possible, each resident shall have been examined by a licensed physician or a licensed nurse practitioner within 60 days before admission to the facility. The signed and completed medical examination report shall be submitted to the owner or administrator of the facility who shall use the information contained therein to assist in the determination of the appropriateness of the resident's admission and continued stay in the facility. The medical examination report shall become a permanent part of the record of the resident at the facility and shall be made available to the agency during inspection or upon request. An assessment that has been completed through the Comprehensive Assessment and Review for Long-Term Care Services (CARES) Program fulfills the requirements for a medical examination under this subsection and s. 400.407(3)(b)6 ~~400.407(4)(b)6~~.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. Section 400.407(4)(b)6. does not exist; s. 400.407(3)(b)6. relates to medical examinations of persons prior to admission to a facility.

Section 62. Subsection (4) of section 402.313, Florida Statutes, is amended to read:

402.313 Family day care homes.—

(4) Operators of family day care homes shall take an approved 30-clock-hour introductory course in child care~~. Family day care homes licensed or registered on June 30, 1999, shall have until June 30, 2001, to comply with this course requirement, except that the department shall exempt family day care homes in this category that can demonstrate that the operator has received at least 30 hours of training. Family day care homes initially licensed or registered on or after July 1, 1999, but before October 1, 1999, shall have until October 1, 1999, to comply with the 30-clock-hour course requirement. Family day care homes initially licensed or registered on or after October 1, 1999, must comply with the 30-clock-hour course requirement~~ before caring for children.

Reviser's note.—Amended to delete obsolete provisions.

Section 63. Subsection (4) of section 402.45, Florida Statutes, is amended to read:

402.45 Community resource mother or father program.—

(4) The Department of Health may, in addition to the criteria in subsection (3) ~~(4)~~, require other criteria to contract for community resource mother or father services.

Reviser's note.—Amended to conform to the repeal of former subsection (2) by s. 26, ch. 2001-170, Laws of Florida.

Section 64. Subsection (5) of section 402.73, Florida Statutes, is reenacted and amended to read:

402.73 Contracting and performance standards.—

(5) When it is in the best interest of a defined segment of its consumer population, the department may competitively procure and contract for systems of treatment or service that involve multiple providers, rather than procuring and contracting for treatment or services separately from each participating provider. The department must ensure that all providers that participate in the treatment or service system meet all applicable statutory, regulatory, service-quality, and cost-control requirements. If other governmental entities or units of special purpose government contribute matching funds to the support of a given system of treatment or service, the department shall formally request information from those funding entities in the procurement process and may take the information received into account in the selection process. If a local government contributes match to support the

system of treatment or contracted service and if the match constitutes at least 25 percent of the value of the contract, the department shall afford the governmental match contributor an opportunity to name an employee to the selection team required by s. 287.057(16) ~~287.057(15)~~. Any employee so named shall qualify as one of the employees required by s. 287.057(16) ~~287.057(15)~~. The selection team shall include the named employee unless the department sets forth in writing the reason such inclusion would be contrary to the best interests of the state. No governmental entity or unit of special purpose government may name an employee to the selection team if it, or any of its political subdivisions, executive agencies, or special districts, intends to compete for the contract to be awarded. The governmental funding entity or match contributor shall comply with any deadlines and procurement procedures established by the department. The department may also involve nongovernmental funding entities in the procurement process when appropriate.

Reviser's note.—Section 15, ch. 2001-278, Laws of Florida, purported to amend subsection (5), but failed to publish the subsection. In the absence of affirmative evidence that the Legislature intended to repeal it, subsection (5) is reenacted to confirm that the omission was not intended. Subsection (5) is amended to conform to the redesignation of s. 287.057(15) as s. 287.057(16) by s. 4, ch. 2001-278.

Section 65. Subsection (2) of section 402.731, Florida Statutes, is amended to read:

402.731 Department of Children and Family Services certification programs for employees and service providers; employment provisions for transition to community-based care.—

(2) The department shall develop and implement employment programs to attract and retain competent staff to support and facilitate the transition to privatized community-based care. Such employment programs shall include lump-sum bonuses, salary incentives, relocation allowances, or severance pay. The department shall also contract for the delivery or administration of outplacement services. The department shall establish time-limited exempt positions as provided in s. 110.205(2)(i) ~~110.205(2)(h)~~, in accordance with the authority provided in s. 216.262(1)(c)1. Employees appointed to fill such exempt positions shall have the same salaries and benefits as career service employees.

Reviser's note.—Amended to conform to the redesignation of s. 110.205(2)(h) as s. 110.205(2)(i) by s. 2, ch. 2001-261, Laws of Florida.

Section 66. Subsection (3) of section 404.056, Florida Statutes, is amended to read:

404.056 Environmental radiation standards and programs; radon protection.—

(3) PUBLIC INFORMATION.—The department shall initiate and administer a program designed to educate and inform the public concerning radon gas and radon progeny, which program shall include, but not be

limited to, the origin and health effects of radon, how to measure radon, and construction and mitigation techniques to reduce exposure to radon. The surcharge established pursuant to s. 553.721 may be used to supplement the fees established in paragraph (2)(f) ~~(3)(f)~~ in carrying out the provisions of this subsection.

Reviser's note.—Amended to conform to the repeal of former subsection (2) by s. 19, ch. 2001-53, Laws of Florida, and s. 29, ch. 2001-89, Laws of Florida.

Section 67. Subsection (2) of section 408.045, Florida Statutes, is amended to read:

408.045 Certificate of need; competitive sealed proposals.—

(2) The agency shall make a decision regarding the issuance of the certificate of need in accordance with the provisions of s. 287.057(16) ~~287.057(15)~~, rules adopted by the agency relating to intermediate care facilities for the developmentally disabled, and the criteria in s. 408.035, as further defined by rule.

Reviser's note.—Amended to conform to the redesignation of s. 287.057(15) as s. 287.057(16) by s. 4, ch. 2001-278, Laws of Florida.

Section 68. Paragraph (a) of subsection (8) of section 409.906, Florida Statutes, is amended to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Optional services rendered by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as "Intermediate Care Facilities for the Developmentally Disabled." Optional services may include:

(8) COMMUNITY MENTAL HEALTH SERVICES.—

(a) The agency may pay for rehabilitative services provided to a recipient by a mental health or substance abuse provider ~~and~~ under contract with the agency or the Department of Children and Family Services to provide such services. Those services which are psychiatric in nature shall be rendered

or recommended by a psychiatrist, and those services which are medical in nature shall be rendered or recommended by a physician or psychiatrist. The agency must develop a provider enrollment process for community mental health providers which bases provider enrollment on an assessment of service need. The provider enrollment process shall be designed to control costs, prevent fraud and abuse, consider provider expertise and capacity, and assess provider success in managing utilization of care and measuring treatment outcomes. Providers will be selected through a competitive procurement or selective contracting process. In addition to other community mental health providers, the agency shall consider for enrollment mental health programs licensed under chapter 395 and group practices licensed under chapter 458, chapter 459, chapter 490, or chapter 491. The agency is also authorized to continue operation of its behavioral health utilization management program and may develop new services if these actions are necessary to ensure savings from the implementation of the utilization management system. The agency shall coordinate the implementation of this enrollment process with the Department of Children and Family Services and the Department of Juvenile Justice. The agency is authorized to utilize diagnostic criteria in setting reimbursement rates, to preauthorize certain high-cost or highly utilized services, to limit or eliminate coverage for certain services, or to make any other adjustments necessary to comply with any limitations or directions provided for in the General Appropriations Act.

Reviser's note.—Amended to facilitate correct interpretation.

Section 69. Subsection (2) of section 409.9117, Florida Statutes, is reenacted to read:

409.9117 Primary care disproportionate share program.—

(2) In the establishment and funding of this program, the agency shall use the following criteria in addition to those specified in s. 409.911, payments may not be made to a hospital unless the hospital agrees to:

(a) Cooperate with a Medicaid prepaid health plan, if one exists in the community.

(b) Ensure the availability of primary and specialty care physicians to Medicaid recipients who are not enrolled in a prepaid capitated arrangement and who are in need of access to such physicians.

(c) Coordinate and provide primary care services free of charge, except copayments, to all persons with incomes up to 100 percent of the federal poverty level who are not otherwise covered by Medicaid or another program administered by a governmental entity, and to provide such services based on a sliding fee scale to all persons with incomes up to 200 percent of the federal poverty level who are not otherwise covered by Medicaid or another program administered by a governmental entity, except that eligibility may be limited to persons who reside within a more limited area, as agreed to by the agency and the hospital.

(d) Contract with any federally qualified health center, if one exists within the agreed geopolitical boundaries, concerning the provision of pri-

mary care services, in order to guarantee delivery of services in a nonduplicative fashion, and to provide for referral arrangements, privileges, and admissions, as appropriate. The hospital shall agree to provide at an onsite or offsite facility primary care services within 24 hours to which all Medicaid recipients and persons eligible under this paragraph who do not require emergency room services are referred during normal daylight hours.

(e) Cooperate with the agency, the county, and other entities to ensure the provision of certain public health services, case management, referral and acceptance of patients, and sharing of epidemiological data, as the agency and the hospital find mutually necessary and desirable to promote and protect the public health within the agreed geopolitical boundaries.

(f) In cooperation with the county in which the hospital resides, develop a low-cost, outpatient, prepaid health care program to persons who are not eligible for the Medicaid program, and who reside within the area.

(g) Provide inpatient services to residents within the area who are not eligible for Medicaid or Medicare, and who do not have private health insurance, regardless of ability to pay, on the basis of available space, except that nothing shall prevent the hospital from establishing bill collection programs based on ability to pay.

(h) Work with the Florida Healthy Kids Corporation, the Florida Health Care Purchasing Cooperative, and business health coalitions, as appropriate, to develop a feasibility study and plan to provide a low-cost comprehensive health insurance plan to persons who reside within the area and who do not have access to such a plan.

(i) Work with public health officials and other experts to provide community health education and prevention activities designed to promote healthy lifestyles and appropriate use of health services.

(j) Work with the local health council to develop a plan for promoting access to affordable health care services for all persons who reside within the area, including, but not limited to, public health services, primary care services, inpatient services, and affordable health insurance generally.

Any hospital that fails to comply with any of the provisions of this subsection, or any other contractual condition, may not receive payments under this section until full compliance is achieved.

Reviser's note.—Section 6, ch. 2001-222, Laws of Florida, purported to amend paragraph (2)(c), but failed to publish the flush left language at the end of the subsection. In the absence of affirmative evidence that the Legislature intended to repeal the language, subsection (2) is reenacted to confirm that the omission was not intended.

Section 70. Subsections (1) and (2) of section 409.91196, Florida Statutes, are amended to read:

409.91196 Supplemental rebate agreements; confidentiality of records and meetings.—

(1) Trade secrets, rebate amount, percent of rebate, manufacturer's pricing, and supplemental rebates which are contained in records of the Agency for Health Care Administration and its agents with respect to supplemental rebate negotiations and which are prepared pursuant to a supplemental rebate agreement under s. 409.912(37)(a)7. ~~409.91195~~ are confidential and exempt from s. 119.07 and s. 24(a), Art. I of the State Constitution.

(2) Those portions of meetings of the Medicaid Pharmaceutical and Therapeutics Committee at which trade secrets, rebate amount, percent of rebate, manufacturer's pricing, and supplemental rebates are disclosed for discussion or negotiation of a supplemental rebate agreement under s. 409.912(37)(a)7. ~~409.91195~~ are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. The reference is not consistent with the content of s. 409.91195 but is consistent with the content of s. 409.912(37)(a)7.

Section 71. Subsection (19) of section 420.503, Florida Statutes, is amended to read:

420.503 Definitions.—As used in this part, the term:

(19) "Housing for the elderly" means, for purposes of s. 420.5087(3)(d) ~~420.5087(3)(c)2.~~, any nonprofit housing community that is financed by a mortgage loan made or insured by the United States Department of Housing and Urban Development under s. 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4), or s. 236 of the National Housing Act, as amended, and that is subject to income limitations established by the United States Department of Housing and Urban Development, or any program funded by the Rural Development Agency of the United States Department of Agriculture and subject to income limitations established by the United States Department of Agriculture. A project which qualifies for an exemption under the Fair Housing Act as housing for older persons as defined by s. 760.29(4) shall qualify as housing for the elderly for purposes of s. 420.5087(3)(d) ~~420.5087(3)(c)2.~~ and for purposes of any loans made pursuant to s. 420.508. In addition, if the corporation adopts a qualified allocation plan pursuant to s. 42(m)(1)(B) of the Internal Revenue Code or any other rules that prioritize projects targeting the elderly for purposes of allocating tax credits pursuant to s. 420.5099 or for purposes of the HOME program under s. 420.5089, a project which qualifies for an exemption under the Fair Housing Act as housing for older persons as defined by s. 760.29(4) shall qualify as a project targeted for the elderly, if the project satisfies the other requirements set forth in this part.

Reviser's note.—Amended to conform to the redesignation of s. 420.5087(3)(c)2. as s. 420.5087(3)(d) by s. 5, ch. 2001-98, Laws of Florida.

Section 72. Subsection (6) of section 420.624, Florida Statutes, is amended to read:

420.624 Local homeless assistance continuum of care.—

(6) The State Office on Homelessness shall recognize only one homeless assistance continuum of care plan and its designated lead agency for each

designated catchment area. The recognition must be made with the input of local homeless coalitions and public or private organizations that have previously certified to the United States Department of Housing and Urban Development that they currently serve as lead agencies for a local homeless assistance continuum of care. The designations must be consistent with those made by the United States Department of Housing and Development in conjunction with the awarding of federal Stewart B. McKinney Act homeless assistance funding.

Reviser's note.—Amended to improve clarity.

Section 73. Paragraph (f) of subsection (1) of section 440.14, Florida Statutes, is amended to read:

440.14 Determination of pay.—

(1) Except as otherwise provided in this chapter, the average weekly wages of the injured employee at the time of the injury shall be taken as the basis upon which to compute compensation and shall be determined, subject to the limitations of s. 440.12(2), as follows:

(f) If it is established that the injured employee was a part-time worker at the time of the injury, that she or he had adopted part-time employment as a customary practice, and that under normal working conditions she or he probably would have remained a part-time worker during the period of disability, these factors shall be considered in arriving at her or his average weekly wages. For the purpose of this paragraph, the term "part-time worker" means an individual who customarily works less than the full-time hours or full-time workweek of a similar employee in the same employment.

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

Section 74. Subsection (10) of section 450.211, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete an obsolete provision. Section 20.17, which created the Department of Commerce, was repealed effective December 31, 1996, by s. 3, ch. 96-320, Laws of Florida.

Section 75. Subsection (7) of section 458.347, Florida Statutes, is reenacted to read:

458.347 Physician assistants.—

(7) PHYSICIAN ASSISTANT LICENSURE.—

(a) Any person desiring to be licensed as a physician assistant must apply to the department. The department shall issue a license to any person certified by the council as having met the following requirements:

1. Is at least 18 years of age.

2. Has satisfactorily passed a proficiency examination by an acceptable score established by the National Commission on Certification of Physician

Assistants. If an applicant does not hold a current certificate issued by the National Commission on Certification of Physician Assistants and has not actively practiced as a physician assistant within the immediately preceding 4 years, the applicant must retake and successfully complete the entry-level examination of the National Commission on Certification of Physician Assistants to be eligible for licensure.

3. Has completed the application form and remitted an application fee not to exceed $300 as set by the boards. An application for licensure made by a physician assistant must include:

a. A certificate of completion of a physician assistant training program specified in subsection (6).

b. A sworn statement of any prior felony convictions.

c. A sworn statement of any previous revocation or denial of licensure or certification in any state.

d. Two letters of recommendation.

(b)1. Notwithstanding subparagraph (a)2. and sub-subparagraph (a)3.a., the department shall examine each applicant who the Board of Medicine certifies:

a. Has completed the application form and remitted a nonrefundable application fee not to exceed $500 and an examination fee not to exceed $300, plus the actual cost to the department to provide the examination. The examination fee is refundable if the applicant is found to be ineligible to take the examination. The department shall not require the applicant to pass a separate practical component of the examination. For examinations given after July 1, 1998, competencies measured through practical examinations shall be incorporated into the written examination through a multiple-choice format. The department shall translate the examination into the native language of any applicant who requests and agrees to pay all costs of such translation, provided that the translation request is filed with the board office no later than 9 months before the scheduled examination and the applicant remits translation fees as specified by the department no later than 6 months before the scheduled examination, and provided that the applicant demonstrates to the department the ability to communicate orally in basic English. If the applicant is unable to pay translation costs, the applicant may take the next available examination in English if the applicant submits a request in writing by the application deadline and if the applicant is otherwise eligible under this section. To demonstrate the ability to communicate orally in basic English, a passing score or grade is required, as determined by the department or organization that developed it, on the test for spoken English (TSE) by the Educational Testing Service (ETS), the test of English as a foreign language (TOEFL) by ETS, a high school or college level English course, or the English examination for citizenship, Immigration and Naturalization Service. A notarized copy of an Educational Commission for Foreign Medical Graduates (ECFMG) certificate may also be used to demonstrate the ability to communicate in basic English; and

b.(I) Is an unlicensed physician who graduated from a foreign medical school listed with the World Health Organization who has not previously taken and failed the examination of the National Commission on Certification of Physician Assistants and who has been certified by the Board of Medicine as having met the requirements for licensure as a medical doctor by examination as set forth in s. 458.311(1), (3), (4), and (5), with the exception that the applicant is not required to have completed an approved residency of at least 1 year and the applicant is not required to have passed the licensing examination specified under s. 458.311 or hold a valid, active certificate issued by the Educational Commission for Foreign Medical Graduates; was eligible and made initial application for certification as a physician assistant in this state between July 1, 1990, and June 30, 1991; and was a resident of this state on July 1, 1990, or was licensed or certified in any state in the United States as a physician assistant on July 1, 1990; or

(II) Completed all coursework requirements of the Master of Medical Science Physician Assistant Program offered through the Florida College of Physician's Assistants prior to its closure in August of 1996. Prior to taking the examination, such applicant must successfully complete any clinical rotations that were not completed under such program prior to its termination and any additional clinical rotations with an appropriate physician assistant preceptor, not to exceed 6 months, that are determined necessary by the council. The boards shall determine, based on recommendations from the council, the facilities under which such incomplete or additional clinical rotations may be completed and shall also determine what constitutes successful completion thereof, provided such requirements are comparable to those established by accredited physician assistant programs. This sub-sub-subparagraph is repealed July 1, 2001.

2. The department may grant temporary licensure to an applicant who meets the requirements of subparagraph 1. Between meetings of the council, the department may grant temporary licensure to practice based on the completion of all temporary licensure requirements. All such administratively issued licenses shall be reviewed and acted on at the next regular meeting of the council. A temporary license expires 30 days after receipt and notice of scores to the licenseholder from the first available examination specified in subparagraph 1. following licensure by the department. An applicant who fails the proficiency examination is no longer temporarily licensed, but may apply for a one-time extension of temporary licensure after reapplying for the next available examination. Extended licensure shall expire upon failure of the licenseholder to sit for the next available examination or upon receipt and notice of scores to the licenseholder from such examination.

3. Notwithstanding any other provision of law, the examination specified pursuant to subparagraph 1. shall be administered by the department only five times. Applicants certified by the board for examination shall receive at least 6 months' notice of eligibility prior to the administration of the initial examination. Subsequent examinations shall be administered at 1-year intervals following the reporting of the scores of the first and subsequent examinations. For the purposes of this paragraph, the department may

develop, contract for the development of, purchase, or approve an examination that adequately measures an applicant's ability to practice with reasonable skill and safety. The minimum passing score on the examination shall be established by the department, with the advice of the board. Those applicants failing to pass that examination or any subsequent examination shall receive notice of the administration of the next examination with the notice of scores following such examination. Any applicant who passes the examination and meets the requirements of this section shall be licensed as a physician assistant with all rights defined thereby.

(c) The license must be renewed biennially. Each renewal must include:

1. A renewal fee not to exceed $500 as set by the boards.

2. A sworn statement of no felony convictions in the previous 2 years.

(d) Each licensed physician assistant shall biennially complete 100 hours of continuing medical education or shall hold a current certificate issued by the National Commission on Certification of Physician Assistants.

(e) Upon employment as a physician assistant, a licensed physician assistant must notify the department in writing within 30 days after such employment or after any subsequent changes in the supervising physician. The notification must include the full name, Florida medical license number, specialty, and address of the supervising physician.

(f) Notwithstanding subparagraph (a)2., the department may grant to a recent graduate of an approved program, as specified in subsection (6), who expects to take the first examination administered by the National Commission on Certification of Physician Assistants available for registration after the applicant's graduation, a temporary license. The temporary license shall expire 30 days after receipt of scores of the proficiency examination administered by the National Commission on Certification of Physician Assistants. Between meetings of the council, the department may grant a temporary license to practice based on the completion of all temporary licensure requirements. All such administratively issued licenses shall be reviewed and acted on at the next regular meeting of the council. The recent graduate may be licensed prior to employment, but must comply with paragraph (e). An applicant who has passed the proficiency examination may be granted permanent licensure. An applicant failing the proficiency examination is no longer temporarily licensed, but may reapply for a 1-year extension of temporary licensure. An applicant may not be granted more than two temporary licenses and may not be licensed as a physician assistant until he or she passes the examination administered by the National Commission on Certification of Physician Assistants. As prescribed by board rule, the council may require an applicant who does not pass the licensing examination after five or more attempts to complete additional remedial education or training. The council shall prescribe the additional requirements in a manner that permits the applicant to complete the requirements and be reexamined within 2 years after the date the applicant petitions the council to retake the examination a sixth or subsequent time.

(g) The Board of Medicine may impose any of the penalties authorized under ss. 456.072 and 458.331(2) upon a physician assistant if the physician assistant or the supervising physician has been found guilty of or is being investigated for any act that constitutes a violation of this chapter or chapter 456.

Reviser's note.—Section 23, ch. 2001-277, Laws of Florida, purported to amend subsection (7), but failed to publish paragraphs (7)(a)-(f). In the absence of affirmative evidence that the Legislature intended to repeal the paragraphs, subsection (7) is reenacted to confirm that the omission was not intended.

Section 76. Subsection (2) of section 463.016, Florida Statutes, is amended to read:

463.016 Grounds for disciplinary action; action by the board.—

(2) The board ~~department~~ may enter an order imposing any of the penalties in s. 456.072(2) against any licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

Reviser's note.—Amended to facilitate correct interpretation. Section 456.079 authorizes regulatory boards, for professions regulated by boards, to adopt and review disciplinary guidelines and take disciplinary action for violations. The practice of optometry is regulated by the Board of Optometry, created in s. 463.003.

Section 77. Subsection (7) of section 464.203, Florida Statutes, is amended to read:

464.203 Certified nursing assistants; certification requirement.—

(7) A certified nursing assistant shall complete 18 hours of inservice training during each calendar year. The certified nursing assistant shall be responsible for maintaining documentation demonstrating compliance with these provisions. The Council on Certified Nursing Assistants, in accordance with s. 464.2085(2)(b) ~~464.0285(2)(b)~~, shall propose rules to implement this subsection.

Reviser's note.—Amended to correct an apparent error. Section 464.0285 does not exist; the Council on Certified Nursing Assistants is created in s. 464.2085.

Section 78. Subsection (3) of section 468.1135, Florida Statutes, is amended to read:

468.1135 Board of Speech-Language Pathology and Audiology.—

(3) ~~No later than January 1, 1991, the Governor shall appoint two members for a term of 2 years; two members for a term of 3 years; and three members for a term of 4 years. Each of the initial speech-language pathologist and audiologist members must hold a valid certificate of registration issued pursuant to part I of chapter 468, Florida Statutes 1989, and must~~

~~have been engaged in the practice of speech-language pathology or audiology for not less than 3 years prior to his or her appointment.~~ As the terms of the initial members expire, the Governor shall appoint successors who meet the requirements of subsection (2) for terms of 4 years. Members shall serve until their successors are appointed.

Reviser's note.—Amended to delete provisions that have served their purpose.

Section 79. Section 468.721, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete a provision that has served its purpose. Rules relating to the regulation of athletic trainers that supersede the rules dating from prior to July 1, 1999, have been adopted.

Section 80. Paragraph (h) of subsection (6) of section 483.901, Florida Statutes, is amended to read:

483.901 Medical physicists; definitions; licensure.—

(6) LICENSE REQUIRED.—An individual may not engage in the practice of medical physics, including the specialties of diagnostic radiological physics, therapeutic radiological physics, medical nuclear radiological physics, or medical health physics, without a license issued by the department for the appropriate specialty.

(h) The department ~~board~~ may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

Reviser's note.—Amended to facilitate correct interpretation. Medical physicists are regulated by the Department of Health under s. 483.901.

Section 81. Paragraph (c) of subsection (1) of section 494.003, Florida Statutes, is amended to read:

494.003 Exemptions.—

(1) None of the following persons is subject to the requirements of ss. 494.003-494.0043:

(c) A wholly owned bank holding company subsidiary or a wholly owned savings and loan association holding company subsidiary that is approved or certified by the Department of Housing and Urban Development, the Veterans Administration, the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation. ~~The department shall prepare a report on the effect of this exemption and deliver its findings no later than January 1, 1997, to the Speaker of the House and the President of the Senate.~~

Reviser's note.—Amended to delete a provision that has served its purpose.

Section 82. Paragraph (c) of subsection (1) of section 494.006, Florida Statutes, is amended to read:

494.006 Exemptions.—

(1) None of the following persons are subject to the requirements of ss. 494.006-494.0077 in order to act as a mortgage lender or correspondent mortgage lender:

(c) A wholly owned bank holding company subsidiary or a wholly owned savings and loan association holding company subsidiary that is approved or certified by the Department of Housing and Urban Development, the Veterans Administration, the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation. ~~The department shall prepare a report on the effect of this exemption and deliver its findings no later than January 1, 1997, to the Speaker of the House and the President of the Senate.~~

Reviser's note.—Amended to delete a provision that has served its purpose.

Section 83. Subsection (7) of section 550.2625, Florida Statutes, is reenacted to read:

550.2625 Horseracing; minimum purse requirement, Florida breeders' and owners' awards.—

(7)(a) Each permitholder that conducts race meets under this chapter and runs Appaloosa races shall pay to the division a sum equal to the breaks plus a sum equal to 1 percent of the total contributions to each pari-mutuel pool conducted on each Appaloosa race. Such payments shall be remitted to the division by the 5th day of each calendar month for sums accruing during the preceding calendar month.

(b) The division shall deposit these collections to the credit of the Florida Quarter Horse Racing Promotion Trust Fund in a special account to be known as the "Florida Appaloosa Racing Promotion Fund." The Department of Agriculture and Consumer Services shall administer the funds and adopt suitable and reasonable rules for the administration thereof. The moneys in the Florida Appaloosa Racing Promotion Fund shall be allocated solely for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing Appaloosas in this state; and such moneys may not be used to defray any expense of the Department of Agriculture and Consumer Services in the administration of this chapter.

Reviser's note.—Section 20, ch. 2001-279, Laws of Florida, purported to amend subsection (7), but failed to republish paragraph (7)(a). In the absence of affirmative evidence that the Legislature intended to repeal paragraph (7)(a), subsection (7) is reenacted to confirm that the omission was not intended.

Section 84. Subsection (1) of section 550.2633, Florida Statutes, is amended to read:

550.2633 Horseracing; distribution of abandoned interest in or contributions to pari-mutuel pools.—

(1) ~~Except as provided in subsection (3),~~ All moneys or other property represented by any unclaimed, uncashed, or abandoned pari-mutuel ticket which has remained in the custody of or under the control of any horseracing permitholder authorized to conduct pari-mutuel pools in this state for a period of 1 year after the date the pari-mutuel ticket was issued, when the rightful owner or owners thereof have made no claim or demand for such money or other property within that period, is hereby declared to have escheated to or to escheat to, and to have become the property of, the state.

Reviser's note.—Amended to conform to the repeal of the referenced subsection (3) by s. 26, ch. 2001-63, Laws of Florida.

Section 85. Subsection (10) of section 550.6305, Florida Statutes, is amended to read:

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

(10) All races or games conducted at a permitholder's facility, all broadcasts of such races or games, and all broadcast rights relating thereto are owned by the permitholder at whose facility such races or games are conducted and constitute the permitholder's property as defined in s. 812.012(4) ~~812.012(3)~~. Transmission, reception of a transmission, exhibition, use, or other appropriation of such races or games, broadcasts of such races or games, or broadcast rights relating thereto without the written consent of the permitholder constitutes a theft of such property under s. 812.014; and in addition to the penal sanctions contained in s. 812.014, the permitholder has the right to avail itself of the civil remedies specified in ss. 772.104, 772.11, and 812.035 in addition to any other remedies available under applicable state or federal law.

Reviser's note.—Amended to conform to the redesignation of s. 812.012(3) as s. 812.012(4) by s. 1, ch. 2001-115, Laws of Florida.

Section 86. Effective March 1, 2002, subsection (2) and paragraphs (b) and (c) of subsection (4) of section 553.73, Florida Statutes, are amended to read:

553.73 Florida Building Code.—

(2) The Florida Building Code shall contain provisions or requirements for public and private buildings, structures, and facilities relative to structural, mechanical, electrical, plumbing, energy, and gas systems, existing buildings, historical buildings, manufactured buildings, elevators, coastal construction, lodging facilities, food sales and food service facilities, health care facilities, including assisted living facilities, adult day care facilities, and facilities for the control of radiation hazards, public or private educational facilities, swimming pools, and correctional facilities and enforcement of and compliance with such provisions or requirements. Further, the Florida Building Code must provide for uniform implementation of ss. 515.25,

515.27, and 515.29 by including standards and criteria for residential swimming pool barriers, pool covers, latching devices, door and window exit alarms, and other equipment required therein, which are consistent with the intent of s. 515.23. Technical provisions to be contained within the Florida Building Code are restricted to requirements related to the types of materials used and construction methods and standards employed in order to meet criteria specified in the Florida Building Code. Provisions relating to the personnel, supervision or training of personnel, or any other professional qualification requirements relating to contractors or their workforce may not be included within the Florida Building Code, and subsections (4), (5), (6), and (7) ~~and (6)~~ are not to be construed to allow the inclusion of such provisions within the Florida Building Code by amendment. This restriction applies to both initial development and amendment of the Florida Building Code.

(4)

(b) Local governments may, subject to the limitations of this section, adopt amendments to the technical provisions of the Florida Building Code which apply solely within the jurisdiction of such government and which provide for more stringent requirements than those specified in the Florida Building Code, not more than once every 6 months, provided:

1. The local governing body determines, following a public hearing which has been advertised in a newspaper of general circulation at least 10 days before the hearing, that there is a need to strengthen the requirements of the Florida Building Code. The determination must be based upon a review of local conditions by the local governing body, which review demonstrates that local conditions justify more stringent requirements than those specified in the Florida Building Code for the protection of life and property.

2. Such additional requirements are not discriminatory against materials, products, or construction techniques of demonstrated capabilities.

3. Such additional requirements may not introduce a new subject not addressed in the Florida Building Code.

4. The enforcing agency shall make readily available, in a usable format, all amendments adopted pursuant to this section.

5. Any amendment to the Florida Building Code shall be transmitted within 30 days by the adopting local government to the commission. The commission shall maintain copies of all such amendments in a format that is usable and obtainable by the public.

6. Any amendment to the Florida Building Code adopted by a local government pursuant to this paragraph shall be effective only until the adoption by the commission of the new edition of the Florida Building Code every third year. At such time, the commission shall review such amendment for consistency with the criteria in paragraph (7)(a) ~~(6)(a)~~ and adopt such amendment as part of the Florida Building Code or rescind the amendment. The commission shall immediately notify the respective local government of the rescission of any amendment. After receiving such notice, the respective

local government may readopt the rescinded amendment pursuant to the provisions of this paragraph.

7. Each county and municipality desiring to make local technical amendments to the Florida Building Code shall by interlocal agreement establish a countywide compliance review board to review any amendment to the Florida Building Code, adopted by a local government within the county pursuant to this paragraph, that is challenged by any substantially affected party for purposes of determining the amendment's compliance with this paragraph. If the compliance review board determines such amendment is not in compliance with this paragraph, the compliance review board shall notify such local government of the noncompliance and that the amendment is invalid and unenforceable until the local government corrects the amendment to bring it into compliance. The local government may appeal the decision of the compliance review board to the commission, which shall conduct a hearing under chapter 120 and the uniform rules of procedure. If the compliance review board determines such amendment to be in compliance with this paragraph, any substantially affected party may appeal such determination to the commission, which shall conduct a hearing under chapter 120 and the uniform rules of procedure. Actions of the commission are subject to judicial review pursuant to s. 120.68. The compliance review board shall determine whether its decisions apply to a respective local jurisdiction or apply countywide.

8. An amendment adopted under this paragraph shall include a fiscal impact statement which documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance. The fiscal impact statement may not be used as a basis for challenging the amendment for compliance.

9. In addition to subparagraphs 7. and 8., the commission may review any amendments adopted pursuant to this subsection and make nonbinding recommendations related to compliance of such amendments with this subsection.

(c) Any amendment adopted by a local enforcing agency pursuant to this subsection shall not apply to state or school district owned buildings, manufactured buildings or factory-built school buildings approved by the commission, or prototype buildings approved pursuant to s. 553.77(5) ~~553.77(6)~~. The respective responsible entities shall consider the physical performance parameters substantiating such amendments when designing, specifying, and constructing such exempt buildings.

Reviser's note.—Subsection (2) and paragraph (4)(b) are amended to conform to the redesignation of subunits of s. 553.73 by s. 25, ch. 2001-186, Laws of Florida. Paragraph (4)(c) is amended to conform to the redesignation of s. 553.77(6) as s. 553.77(5) by s. 26, ch. 2001-186.

Section 87. Effective March 1, 2002, paragraph (d) of subsection (1) of section 553.80, Florida Statutes, is amended to read:

553.80 Enforcement.—

(1) Except as provided in paragraphs (a)-(e), each local government and each legally constituted enforcement district with statutory authority shall regulate building construction and, where authorized in the state agency's enabling legislation, each state agency shall enforce the Florida Building Code required by this part on all public or private buildings, structures, and facilities, unless such responsibility has been delegated to another unit of government pursuant to s. 553.79(9).

(d) Building plans approved pursuant to s. 553.77(5) ~~553.77(6)~~ and state-approved manufactured buildings, including buildings manufactured and assembled offsite and not intended for habitation, such as lawn storage buildings and storage sheds, are exempt from local code enforcing agency plan reviews except for provisions of the code relating to erection, assembly, or construction at the site. Erection, assembly, and construction at the site are subject to local permitting and inspections.

The governing bodies of local governments may provide a schedule of fees, as authorized by s. 125.56(2) or s. 166.222 and this section, for the enforcement of the provisions of this part. Such fees shall be used solely for carrying out the local government's responsibilities in enforcing the Florida Building Code. The authority of state enforcing agencies to set fees for enforcement shall be derived from authority existing on July 1, 1998. However, nothing contained in this subsection shall operate to limit such agencies from adjusting their fee schedule in conformance with existing authority.

Reviser's note.—Amended to conform to the redesignation of s. 553.77(6) as s. 553.77(5) necessitated by the repeal of former subsection (2) by s. 26, ch. 2001-186, Laws of Florida.

Section 88. Subsection (1) of section 582.18, Florida Statutes, is reenacted to read:

582.18 Election of supervisors of each district.—

(1) The election of supervisors for each soil and water conservation district shall be held every 2 years. The elections shall be held at the time of the general election provided for by s. 100.041. The office of the supervisor of a soil and water conservation district is a nonpartisan office, and candidates for such office are prohibited from campaigning or qualifying for election based on party affiliation.

(a) Each candidate for supervisor for such district shall be nominated by nominating petition subscribed by 25 or more qualified electors of such district. Candidates shall obtain signatures on petition forms prescribed by the Department of State and furnished by the appropriate qualifying officer. In multicounty districts, the appropriate qualifying officer is the Secretary of State; in single-county districts, the appropriate qualifying officer is the supervisor of elections. Such forms may be obtained at any time after the first Tuesday after the first Monday in January preceding the election, but prior to the 21st day preceding the first day of the qualifying period for state

office. Each petition shall be submitted, prior to noon of the 21st day preceding the first day of the qualifying period for state office, to the supervisor of elections of the county for which such petition was circulated. The supervisor of elections shall check the signatures on the petition to verify their status as electors in the district. Prior to the first date for qualifying, the supervisor of elections shall determine whether the required single-county signatures have been obtained; and she or he shall so notify the candidate. In the case of a multicounty candidate, the supervisor of elections shall check the signatures on petitions and shall, prior to the first date for qualifying for office, certify to the Department of State the number shown as registered electors of the district. The Department of State shall determine if the required number of signatures has been obtained for multicounty candidates and shall so notify the candidate. If the required number of signatures has been obtained for the name of the candidate to be placed on the ballot, the candidate shall, during the time prescribed for qualifying for office in s. 99.061, submit a copy of the notice to, and file her or his qualification papers with, the qualifying officer and take the oath prescribed in s. 99.021.

(b) Each nominee who collects or expends campaign contributions shall conduct her or his campaign for supervisor of a soil and water conservation district in accordance with the provisions of chapter 106. Candidates who neither receive contributions nor make expenditures, other than expenditures for verification of signatures on petitions, are exempt from the provisions of chapter 106 requiring establishment of bank accounts and appointment of a campaign treasurer, but shall file periodic reports as required by s. 106.07.

(c) The names of all nominees on behalf of whom such nominating petitions have been filed shall appear upon ballots in accordance with the general election laws. All qualified electors residing within the district shall be eligible to vote in such election. The candidates who receive the largest number of the votes cast from each group of candidates in such election shall be the elected supervisors from such group for such district. In the case of a newly created district participating in a regular election for the first time, three groups of candidates shall be elected for terms of 4 years, and two groups shall be elected for initial terms of 2 years. Each candidate elected shall assume office on the first Tuesday after the first Monday in January following the election.

Reviser's note.—Section 31, ch. 2001-40, Laws of Florida, purported to amend paragraph (1)(c), but failed to republish the introductory paragraph of subsection (1). In the absence of affirmative evidence that the Legislature intended to repeal the introductory language, subsection (1) is reenacted to confirm that the omission was not intended.

Section 89. 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, 2000, through December 30, 2001, for property and casualty insurers holding a certificate of authority on December 1, 1993.

Section 90. Section 625.171, Florida Statutes, is amended to read:

625.171 Valuation of purchase money mortgages.—Purchase money mortgages on real property referred to in s. 625.161(2) ~~625.161(1)~~ shall be valued in an amount not exceeding the acquisition cost to the insurer of real property covered thereby or 90 percent of the fair value of such real property, whichever is less.

Reviser's note.—Amended to conform to the redesignation of s. 625.161(1) as s. 625.161(2) by s. 19, ch. 2001-213, Laws of Florida.

Section 91. Subsections (3) and (4) of section 626.032, Florida Statutes, are amended to read:

626.032 "Administrative agent" defined; continuing education and designation required.—

(3) An agent may request, and the department must grant, a designation of "administrative agent" to be prominently printed on the agent's license. The request shall be filed on a form furnished by the department with the administrative agent's application filing fee of $10 and license modification fee established by s. 624.501(15) ~~624.501(16)~~.

(4) An administrative agent who desires removal of the "administrative agent" designation may apply to the department, on forms furnished by the department with an application filing fee of $10 and license modification fee established pursuant to s. 624.501(15) ~~624.501(16)~~. If, during the 24 months preceding the application, the administrative agent completed the full continuing education requirements specified in s. 626.2815, the department shall remove the designation from the agent's license.

Reviser's note.—Amended to conform to the redesignation of s. 624.501(16) as s. 624.501(15) necessitated by the repeal of former subsection (11) by s. 2, ch. 2001-142, Laws of Florida.

Section 92. Section 626.202, Florida Statutes, is amended to read:

626.202 Fingerprinting requirements.—If there is a change in ownership or control of any entity licensed under this chapter, or if a new partner, officer, or director is employed or appointed, a set of fingerprints of the new owner, partner, officer, or director must be filed with the department within 30 days after the change. The acquisition of 10 percent or more of ~~a~~ the voting securities of a licensed entity is considered a change of ownership or control. The fingerprints must be certified by a law enforcement officer and be accompanied by the fingerprint processing fee in s. 624.501.

Reviser's note.—Amended to improve clarity.

Section 93. Subsection (1) of section 626.874, Florida Statutes, is amended to read:

626.874 Catastrophe or emergency adjusters.—

(1) In the event of a catastrophe or emergency, the department may issue a license, for the purposes and under the conditions which it shall fix and for the period of emergency as it shall determine, to persons who are residents or nonresidents of this state and who are not licensed adjusters under this part but who have been designated and certified to it as qualified to act as adjusters by independent resident adjusters or by an authorized insurer or by a licensed general lines agent to adjust claims, losses, or damages under policies or contracts of insurance issued by such insurers. The fee for the license shall be as provided in s. 624.501(12)(c) ~~624.501(13)(c)~~.

Reviser's note.—Amended to conform to the redesignation of s. 624.501(13)(c) as s. 624.501(12)(c) necessitated by the repeal of former subsection (11) by s. 2, ch. 2001-142, Laws of Florida.

Section 94. Subparagraph 4. of paragraph (b) of subsection (4) of section 627.072, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete a provision that has served its purpose. The cited subparagraph sets a deadline for reporting procedures by January 1, 1980.

Section 95. Subsection (11) of section 627.192, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete a provision that has served its purpose.

Section 96. Subsection (4) of section 627.211, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete an obsolete provision.

Section 97. Paragraph (o) of subsection (4) of section 627.311, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete an obsolete provision.

Section 98. Subsections (1) and (5) of section 627.702, Florida Statutes, are amended to read:

627.702 Valued policy law.—

(1) In the event of the total loss of any building, structure, mobile home as defined in s. 320.01(2), or manufactured building as defined in s. 553.36(12) ~~553.36(11)~~, located in this state and insured by any insurer as to a covered peril, in the absence of any change increasing the risk without the insurer's consent and in the absence of fraudulent or criminal fault on the part of the insured or one acting in her or his behalf, the insurer's liability, if any, under the policy for such total loss shall be in the amount of money for which such property was so insured as specified in the policy and for which a premium has been charged and paid.

(5) This section does not apply as to personal property or any interest therein, except with respect to mobile homes as defined in s. 320.01(2) or

manufactured buildings as defined in s. 553.36(12) ~~553.36(11)~~. Nor does this section apply to coverage of an appurtenant structure or other structure or any coverage or claim in which the dollar amount of coverage available as to the structure involved is not directly stated in the policy as a dollar amount specifically applicable to that particular structure.

Reviser's note.—Amended to conform to the redesignation of s. 553.36(11) as s. 553.36(12) by s. 21, ch. 2001-186, Laws of Florida.

Section 99. Section 633.111, Florida Statutes, is amended to read:

633.111 State Fire Marshal to keep records of fires; reports of agents.—The State Fire Marshal shall keep in her or his office a record of all fires occurring in this state upon which she or he had caused an investigation to be made and all facts concerning the same. These records, obtained or prepared by the State Fire Marshal pursuant to her or his investigation, include documents, papers, letters, maps, diagrams, tapes, photographs, films, sound recordings, and evidence. These records are confidential and exempt from the provisions of s. 119.07(1) until the investigation is completed or ceases to be active. For purposes of this section, an investigation is considered "active" while such investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department is proceeding with reasonable dispatch, and there is a good faith belief that action may be initiated by the department or other administrative or law enforcement agency. Further, these documents, papers, letters, maps, diagrams, tapes, photographs, films, sound recordings, and evidence relative to the subject of an investigation shall not be subject to subpoena until the investigation is completed or ceases to be active, unless the State Fire Marshal consents. These records shall be made daily from the reports furnished the State Fire Marshal by her or his agents or others. Whenever the State Fire Marshal releases an investigative report, any person requesting a copy of the report shall pay in advance, and the State Fire Marshal shall collect in advance, notwithstanding the provisions of s. 624.501(19)(a) and (b) ~~624.501(20)(a) and (b)~~, a fee of $10 for the copy of the report, which fee shall be deposited into the Insurance Commissioner's Regulatory Trust Fund. The State Fire Marshal may release the report without charge to any state attorney or to any law enforcement agency or fire department assisting in the investigation.

Reviser's note.—Amended to conform to the redesignation of s. 624.501(20)(a) and (b) as s. 624.501(19)(a) and (b) necessitated by the repeal of s. 624.501(11) by s. 2, ch. 2001-142, Laws of Florida.

Section 100. Section 658.26, Florida Statutes, is reenacted to read:

658.26 Places of transacting business; branches; facilities.—

(1) Any bank or trust company heretofore or hereafter incorporated pursuant to this chapter shall have one main office, which shall be located within the state.

(2)(a) In addition, with the approval of the department and upon such conditions as the department prescribes, any bank or trust company may establish branches within or outside the state. With the approval of the department upon a determination that the resulting bank or trust company will be of sound financial condition, any bank or trust company incorporated pursuant to this chapter may establish branches by merger with any other bank or trust company.

(b) An application for a branch by a bank that does not meet the requirements for the branch notification process shall be in writing in such form as the department prescribes and be supported by such information, data, and records as the department may require to make findings necessary for approval. Applications filed pursuant to this subsection shall not be published in the Florida Administrative Weekly but shall otherwise be subject to the provisions of chapter 120. Upon the filing of an application and a nonrefundable filing fee for the establishment of any branch permitted by paragraph (a), the department shall make an investigation with respect to compliance with the requirements of paragraph (a) and shall investigate and consider all factors relevant to such requirements, including the following:

1. The sufficiency of capital accounts in relation to the deposit liabilities of the bank, or in relation to the number and valuation of fiduciary accounts of the trust company, including the proposed branch, and the additional fixed assets, if any, which are proposed for the branch and its operations, without undue risk to the bank or its depositors, or undue risk to the trust company or its fiduciary accounts;

2. The sufficiency of earnings and earning prospects of the bank or trust company to support the anticipated expenses and any anticipated operating losses of the branch during its formative or initial years;

3. The sufficiency and quality of management available to operate the branch;

4. The name of the proposed branch to determine if it reasonably identifies the branch as a branch of the main office and is not likely to unduly confuse the public; and

5. Substantial compliance by the applicants with applicable law governing their operations.

(c) As provided by departmental rule, a financial institution operating in a safe and sound manner may establish a branch by filing a written notice with the department at least 30 days before opening that branch. In such case, the financial institution need not file a branch application or pay a branch application fee.

(3)(a) An office in this state may be relocated with prior written approval of the department. An application for relocation shall be in writing in such form as the department prescribes and shall be supported by such information, data, and records as the department may require to make findings necessary for approval.

(b) Applications filed pursuant to this subsection shall not be published in the Florida Administrative Weekly but shall otherwise be subject to the provisions of chapter 120. Upon the filing of a relocation application and a nonrefundable filing fee, the department shall investigate to determine substantial compliance by the financial institution with applicable law governing its operations. Additional investments in land, buildings, leases, and leasehold improvements resulting from such relocation shall comply with the limitations imposed by s. 658.67(7)(a). A main office may not be moved outside this state unless expressly authorized by the financial institutions codes or by federal law.

(c) A relocation application filed by a state bank or trust company that is operating in a safe and sound manner which is not denied within 10 working days after receipt shall be deemed approved unless the department notifies the financial institution in writing that the application was not complete.

(d) In addition to the application required by paragraph (a), a financial institution whose main office in this state has been in operation less than 24 months must provide evidence that the criteria of s. 658.21(1) will be met.

(e) A branch office may be closed with 30 days' prior written notice to the department. The notice shall include any information the department may prescribe by rule.

(4) With prior written notification to the department, any bank may operate facilities which are not physically connected to the main or branch office of the bank, provided that the facilities are situated on the property of the main or branch office or property contiguous thereto. Property which is separated from the main or branch office of a bank by only a street, and one or more walkways and alleyways are determined to be, for purposes of this subsection, contiguous to the property of the main or branch office.

(5) A bank may provide, directly or through a contract with another company, off-premises armored car service to its customers. Armored car services shall not be considered a branch for the purposes of subsection (2).

(6)(a) Any state bank that is a subsidiary of a bank holding company may agree to receive deposits, renew time deposits, close loans, service loans, and receive payments on loans and other obligations, as an agent for an affiliated depository institution.

(b) The term "close loan" does not include the making of a decision to extend credit or the extension of credit.

(c) As used in this section, "receive deposits" means the taking of deposits to be credited to an existing account and does not include the opening or origination of new deposit accounts at an affiliated institution by the agent institution.

(d) Under this section, affiliated banks may act as agents for one another regardless of whether the institutions are located in the same or different states. This section applies solely to affiliated depository institutions acting

as agents, and has no application to agency relationships concerning non-depositories as agent, whether or not affiliated with the depository institution.

(e) In addition, under this section, agent banks may perform ministerial functions for the principal bank making a loan. Ministerial functions include, but are not limited to, such activities as providing loan applications, assembling documents, providing a location for returning documents necessary for making the loan, providing loan account information, and receiving payments. It does not include such loan functions as evaluating applications or disbursing loan funds.

Reviser's note.—Section 14, ch. 2001-243, Laws of Florida, purported to amend s. 658.26, but failed to republish paragraph (2)(c). In the absence of affirmative evidence that the Legislature intended to repeal this language, the section is reenacted to confirm that the omission was not intended.

Section 101. Subsection (5) of section 660.27, Florida Statutes, is amended to read:

660.27 Deposit of securities with Treasurer.—

(5) With the approval of the Treasurer, each trust company, bank, or association as pledgor may deposit eligible collateral with a custodian. This custodian shall not be affiliated or related to the trust company, bank, or association. Collateral must be deposited using the collateral agreements and provisions as set forth in s. 280.041(2) and (3) ~~280.041(1) and (2)~~.

Reviser's note.—Amended to conform to the redesignation of s. 280.041(1) and (2) as s. 280.041(2) and (3) by s. 3, ch. 2001-230, Laws of Florida.

Section 102. Paragraph (m) of subsection (3) of section 680.1031, Florida Statutes, is amended to read:

680.1031 Definitions and index of definitions.—

(3) The following definitions in other chapters of this code apply to this chapter:

(m) "Pursuant to a commitment," s. 679.1021(1)(ooo) ~~679.1021(1)(ppp)~~.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. The term "pursuant to commitment" is defined in s. 679.1021(1)(ooo).

Section 103. Sections 697.20, 697.201, 697.202, 697.204, 697.205, and 697.206, Florida Statutes, are repealed.

Reviser's note.—Repeals the Florida Home Equity Conversion Act. The act has become obsolete and has served its purpose.

Section 104. Paragraph (c) of subsection (4) of section 709.08, Florida Statutes, is amended to read:

709.08 Durable power of attorney.—

(4) PROTECTION WITHOUT NOTICE; GOOD FAITH ACTS; AFFIDAVITS.—

(c) An affidavit executed by the attorney in fact must state where the principal is domiciled, that the principal is not deceased, and that there has been no revocation, partial or complete termination by adjudication of incapacity or by the occurrence of an event referenced in the durable power of attorney, or suspension by initiation of proceedings to determine incapacity or to appoint a guardian of the durable power of attorney at the time the power of attorney is exercised. A written affidavit executed by the attorney in fact under this paragraph may, but need not, be in the following form:

STATE OF.....
COUNTY OF.....

Before me, the undersigned authority, personally appeared ...(attorney in fact)... ("Affiant"), who swore or affirmed that:

1. Affiant is the attorney in fact named in the Durable Power of Attorney executed by ...(principal)... ("Principal") on ...(date)....

2. This Durable Power of Attorney is currently exercisable by Affiant. The principal is domiciled in ...(insert name of state, territory, or foreign country ~~county~~)....

3. To the best of the Affiant's knowledge after diligent search and inquiry:

a. The Principal is not deceased; and

b. There has been no revocation, partial or complete termination by adjudication of incapacity or by the occurrence of an event referenced in the durable power of attorney, or suspension by initiation of proceedings to determine incapacity or to appoint a guardian.

4. Affiant agrees not to exercise any powers granted by the Durable Power of Attorney if Affiant attains knowledge that it has been revoked, partially or completely terminated, suspended, or is no longer valid because of the death or adjudication of incapacity of the Principal.

.....
...(Affiant)...

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

...(Signature of Notary Public-State of Florida)...

...(Print, Type, or Stamp Commissioned Name of Notary Public)...

Personally Known OR Produced Identification
...(Type of Identification Produced)...

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

Section 105. Paragraph (c) of subsection (2) of section 723.06116, Florida Statutes, is amended to read:

723.06116 Payments to the Florida Mobile Home Relocation Trust Fund.—

(2) A mobile home park owner is not required to make the payment prescribed in subsection (1), nor is the mobile home owner entitled to compensation under s. 723.0612, when:

(c) A mobile home owner abandons the mobile home as set forth in s. 723.0612(7) ~~723.0612(8)~~.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Abandonment of the mobile home by the mobile home owner is addressed in s. 723.0612(7).

Section 106. Subsection (29) of section 731.201, Florida Statutes, is amended to read:

731.201 General definitions.—Subject to additional definitions in subsequent chapters that are applicable to specific chapters or parts, and unless the context otherwise requires, in this code, in s. 409.9101, and in chapters 737, 738, and 744:

(29) "Protected homestead" means the property described in s. 4(a)(1), Art. X of the State Constitution on which at the death of the owner the exemption inures to the owner's surviving spouse or heirs under s. 4(b), Art. X of the State Constitution. For purposes of the code, real property owned as tenants by the entirety is not protected homestead.

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

Section 107. Section 732.219, Florida Statutes, is amended to read:

732.219 Disposition upon death.—Upon the death of a married person, one-half of the property to which ss. 732.216-732.228 apply is the property of the surviving spouse and is not subject to testamentary disposition by the decedent or distribution under the laws of succession of this state. One-half of that property is the property of the decedent and is subject to testamentary disposition or distribution under the laws of succession of this state. The decedent's one-half of that property is not in the elective ~~elected~~ estate.

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

Section 108. Subsection (1) of section 733.501, Florida Statutes, is amended to read:

733.501 Curators.—

(1) When it is necessary, the court may appoint a curator after formal notice to the person apparently entitled to letters of administration. The curator may be authorized to perform any duty or function of a personal representative. If there is great danger that any of the decedent's property is likely to be wasted, destroyed, or removed beyond the jurisdiction of the court and if the appointment of a curator would be delayed by giving notice, the court may appoint a curator without giving notice.

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

Section 109. Subsection (4) of section 733.617, Florida Statutes, is amended to read:

733.617 Compensation of personal representative.—

(4) If the will provides that a personal representative's compensation shall be based upon specific criteria, other than a general reference to commissions allowed by law or words of ~~or~~ similar import, including, but not limited to, rates, amounts, commissions, or reference to the personal representative's regularly published schedule of fees in effect at the decedent's date of death, or words of similar import, then a personal representative shall be entitled to compensation in accordance with that provision. However, except for references in the will to the personal representative's regularly published schedule of fees in effect at the decedent's date of death, or words of similar import, if there is no written contract with the decedent regarding compensation, a personal representative may renounce the provisions contained in the will and be entitled to compensation under this section. A personal representative may also renounce the right to all or any part of the compensation.

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

Section 110. Subsections (3) and (4) of section 734.101, Florida Statutes, are amended to read:

734.101 Foreign personal representative.—

(3) Debtors who have not received a written demand for payment from a personal representative or curator appointed in this state within 60 days after appointment of a personal representative in any other state or country, and whose property in Florida is subject to a mortgage or other lien securing the debt held by the foreign personal representative, may pay the foreign personal representative after the expiration of 60 days from the date of appointment of the foreign personal ~~personnel~~ representative. Thereafter, a satisfaction of the mortgage or lien executed by the foreign personal representative, with an authenticated copy of the letters or other evidence of authority attached, may be recorded in the public records. The satisfaction shall be an effective discharge of the mortgage or lien, irrespective of whether the debtor making payment had received a written demand before paying the debt.

(4) All persons indebted to the estate of a decedent, or having possession of personal property belonging to the estate, who have received no written demand from a personal representative or curator appointed in this state for payment of the debt or the delivery of the property are authorized to pay the debt or to deliver the personal property to the foreign personal representative after the expiration of 60 days from the date of appointment of the foreign personal ~~personnel~~ representative.

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

Section 111. Section 765.5185, Florida Statutes, is amended to read:

765.5185 Corneal removal by medical examiners.—

(1) In any case in which a patient is in need of corneal tissue for a transplant, a district medical examiner or an appropriately qualified designee with training in ophthalmologic techniques may, upon request of any eye bank authorized under s. 765.518 ~~732.918~~, provide the cornea of a decedent whenever all of the following conditions are met:

(a) A decedent who may provide a suitable cornea for the transplant is under the jurisdiction of the medical examiner and an autopsy is required in accordance with s. 406.11.

(b) No objection by the next of kin of the decedent is known by the medical examiner.

(c) The removal of the cornea will not interfere with the subsequent course of an investigation or autopsy.

(2) Neither the district medical examiner nor the medical examiner's appropriately qualified designee nor any eye bank authorized under s. 765.518 ~~732.918~~ may be held liable in any civil or criminal action for failure to obtain consent of the next of kin.

Reviser's note.—Amended to conform to the redesignation of s. 732.918 as s. 765.518 by s. 68, ch. 2001-226, Laws of Florida.

Section 112. Subsection (1) of section 765.5215, Florida Statutes, is amended to read:

765.5215 Education program relating to anatomical gifts.—The Agency for Health Care Administration, subject to the concurrence of the Department of Highway Safety and Motor Vehicles, shall develop a continuing program to educate and inform medical professionals, law enforcement agencies and officers, high school children, state and local government employees, and the public regarding the laws of this state relating to anatomical gifts and the need for anatomical gifts.

(1) The program is to be implemented with the assistance of the organ and tissue donor education panel as provided in s. 765.5216 ~~732.9216~~ and with the funds collected under ss. 320.08047 and 322.08(6)(b). Existing community resources, when available, must be used to support the program,

and volunteers may assist the program to the maximum extent possible. The Agency for Health Care Administration may contract for the provision of all or any portion of the program. When awarding such contract, the agency shall give priority to existing nonprofit groups that are located within the community, including within the minority communities specified in subsection (2). The program aimed at educating medical professionals may be implemented by contract with one or more medical schools located in the state.

Reviser's note.—Amended to conform to the redesignation of s. 732.9216 as s. 765.5216 by s. 74, ch. 2001-226, Laws of Florida.

Section 113. Subsection (2) of section 765.5216, Florida Statutes, is amended to read:

765.5216 Organ and tissue donor education panel.—

(2) There is created within the Agency for Health Care Administration a statewide organ and tissue donor education panel, consisting of 12 members, to represent the interests of the public with regard to increasing the number of organ and tissue donors within the state. The panel and the Organ and Tissue Procurement and Transplantation Advisory Board established in s. 381.6023 shall jointly develop, subject to the approval of the Agency for Health Care Administration, education initiatives pursuant to s. 765.5215 ~~732.9215~~, which the agency shall implement. The membership must be balanced with respect to gender, ethnicity, and other demographic characteristics so that the appointees reflect the diversity of the population of this state. The panel members must include:

(a) A representative from the Agency for Health Care Administration, who shall serve as chairperson of the panel.

(b) A representative from a Florida licensed organ procurement organization.

(c) A representative from a Florida licensed tissue bank.

(d) A representative from a Florida licensed eye bank.

(e) A representative from a Florida licensed hospital.

(f) A representative from the Division of Driver Licenses of the Department of Highway Safety and Motor Vehicles, who possesses experience and knowledge in dealing with the public.

(g) A representative from the family of an organ, tissue, or eye donor.

(h) A representative who has been the recipient of a transplanted organ, tissue, or eye, or is a family member of a recipient.

(i) A representative who is a minority person as defined in former s. 381.81.

(j) A representative from a professional association or public relations or advertising organization.

(k) A representative from a community service club or organization.

(l) A representative from the Department of Education.

Reviser's note.—The introductory language to subsection (2) is amended to conform to the redesignation of s. 732.9215 as s. 765.5215 by s. 72, ch. 2001-226, Laws of Florida. Paragraph (2)(i) is amended to improve clarity and facilitate correct interpretation; s. 381.81 was repealed by s. 125, ch. 97-237, Laws of Florida.

Section 114. Subsection (4) of section 766.1115, Florida Statutes, is reenacted to read:

766.1115 Health care providers; creation of agency relationship with governmental contractors.—

(4) CONTRACT REQUIREMENTS.—A health care provider that executes a contract with a governmental contractor to deliver health care services on or after April 17, 1992, as an agent of the governmental contractor is an agent for purposes of s. 768.28(9), while acting within the scope of duties pursuant to the contract, if the contract complies with the requirements of this section and regardless of whether the individual treated is later found to be ineligible. A health care provider under contract with the state may not be named as a defendant in any action arising out of the medical care or treatment provided on or after April 17, 1992, pursuant to contracts entered into under this section. The contract must provide that:

(a) The right of dismissal or termination of any health care provider delivering services pursuant to the contract is retained by the governmental contractor.

(b) The governmental contractor has access to the patient records of any health care provider delivering services pursuant to the contract.

(c) Adverse incidents and information on treatment outcomes must be reported by any health care provider to the governmental contractor if such incidents and information pertain to a patient treated pursuant to the contract. The health care provider shall submit the reports required by s. 395.0197. If an incident involves a professional licensed by the Department of Health or a facility licensed by the Agency for Health Care Administration, the governmental contractor shall submit such incident reports to the appropriate department or agency, which shall review each incident and determine whether it involves conduct by the licensee that is subject to disciplinary action. All patient medical records and any identifying information contained in adverse incident reports and treatment outcomes which are obtained by governmental entities pursuant to this paragraph are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(d) Patient selection and initial referral must be made solely by the governmental contractor, and the provider must accept all referred patients. However, the number of patients that must be accepted may be limited by the contract, and patients may not be transferred to the provider based on

a violation of the antidumping provisions of the Omnibus Budget Reconciliation Act of 1989, the Omnibus Budget Reconciliation Act of 1990, or chapter 395.

(e) If emergency care is required, the patient need not be referred before receiving treatment, but must be referred within 48 hours after treatment is commenced or within 48 hours after the patient has the mental capacity to consent to treatment, whichever occurs later.

(f) Patient care, including any followup or hospital care, is subject to approval by the governmental contractor.

(g) The provider is subject to supervision and regular inspection by the governmental contractor.

A governmental contractor that is also a health care provider is not required to enter into a contract under this section with respect to the health care services delivered by its employees.

Reviser's note.—Section 88, ch. 2001-277, Laws of Florida, purported to amend paragraph (4)(c), but failed to republish the flush left language at the end of the subsection. In the absence of affirmative evidence that the Legislature intended to repeal the flush left language, subsection (4) is reenacted to confirm that the omission was not intended.

Section 115. Subsection (2) of section 766.305, Florida Statutes, is amended to read:

766.305 Filing of claims and responses; medical disciplinary review.—

(2) The claimant shall furnish the division with as many copies of the petition as required for service upon the association, any physician and hospital named in the petition, and the Division of Medical Quality Assurance, along with a $15 filing fee payable to the Division of Administrative Hearings. Upon receipt of the petition, the division shall immediately serve the association, by service upon the agent designated to accept service on behalf of the association, by registered or certified mail, and shall mail copies of the petition to any physician and hospital named in the petition, the Division of Medical Quality Assurance, and the Agency for Health Care Administration~~, and the medical advisory review panel provided for in s. 766.308~~.

Reviser's note.—Amended to conform to the repeal of s. 766.308 by s. 151, ch. 2001-277, Laws of Florida.

Section 116. Subsection (1) of section 784.074, Florida Statutes, is amended to read:

784.074 Assault or battery on sexually violent predators detention or commitment facility staff; reclassification of offenses.—

(1) Whenever a person is charged with committing an assault or aggravated assault or a battery or aggravated battery upon a staff member of a

sexually violent predators detention or commitment facility as defined in part V of ~~or~~ chapter 394, while the staff member is engaged in the lawful performance of his or her duties and when the person committing the offense knows or has reason to know the identity or employment of the victim, the offense for which the person is charged shall be reclassified as follows:

(a) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree.

(b) In the case of an aggravated assault, from a felony of the third degree to a felony of the second degree.

(c) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

(d) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

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

Section 117. Paragraph (a) of subsection (5) and subsection (7) of section 806.13, Florida Statutes, are amended to read:

806.13 Criminal mischief; penalties; penalty for minor.—

(5)(a) The amounts of value of damage to property owned by separate persons, if the property was damaged during one scheme or course of ~~or~~ conduct, may be aggregated in determining the grade of the offense under this section.

(7) A minor whose driver's license or driving privilege is revoked, suspended, or withheld under subsection (6) ~~(5)~~ may elect to reduce the period of revocation, suspension, or withholding by performing community service at the rate of 1 day for each hour of community service performed. In addition, if the court determines that due to a family hardship, the minor's driver's license or driving privilege is necessary for employment or medical purposes of the minor or a member of the minor's family, the court shall order the minor to perform community service and reduce the period of revocation, suspension, or withholding at the rate of 1 day for each hour of community service performed. As used in this subsection, the term "community service" means cleaning graffiti from public property.

Reviser's note.—Paragraph (5)(a) is amended to facilitate correct interpretation. Subsection (7) is amended to conform to the redesignation of subsection (5) as subsection (6) by s. 5, ch. 2001-244, Laws of Florida.

Section 118. Paragraphs (g), (h), and (i) of subsection (3) of section 921.0022, Florida Statutes, as amended by section 2 of chapter 2001-358, Laws of Florida, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920(2)	3rd	Medicaid provider fraud.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.
462.17	3rd	Practicing naturopathy without a license.
463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(9)	3rd	Practicing medical physics without a license.
484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
484.053	3rd	Dispensing hearing aids without a license.

Florida Statute	Felony Degree	Description
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $300 but less than $20,000 by money transmitter.
560.125(5)(a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.
655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less than $20,000 by financial institution.
782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	2nd	Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.

Florida Statute	Felony Degree	Description
784.083(1)	1st	Aggravated battery on code inspector.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
812.014(2)(a)	1st	Property stolen, valued at $100,000 or more; cargo stolen valued at $50,000, or more; property stolen while causing other property damage; 1st degree grand theft.
812.014(2)(b)3. ~~812.014(2)(b)2.~~	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
817.234(11)(c)	1st	Insurance fraud; property value $100,000 or more.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.

Florida Statute	Felony Degree	Description
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $20,000 or more, but less than $100,000.
827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
872.06	2nd	Abuse of a dead human body.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility or school.
893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.

Florida Statute	Felony Degree	Description
893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135(1)(j)1.a. ~~893.135(1)(i)1.a.~~	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
893.135(1)(k)2.a. ~~893.135(1)(j)2.a.~~	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.
		(h) LEVEL 8
316.193 (3)(c)3.a.	2nd	DUI manslaughter.
327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
560.123(8)(b)2.	2nd	Failure to report currency or payment instruments totaling or exceeding $20,000, but less than $100,000 by money transmitter.
560.125(5)(b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding $20,000, but less than $100,000.
655.50(10)(b)2.	2nd	Failure to report financial transactions totaling or exceeding $20,000, but less than $100,000 by financial institutions.
777.03(2)(a)	1st	Accessory after the fact, capital felony.
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.
782.051(2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
782.071(1)(b)	1st	Committing vehicular homicide and failing to render aid or give information.

Florida Statute	Felony Degree	Description
782.072(2)	1st	Committing vessel homicide and failing to render aid or give information.
790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
800.04(4)	2nd	Lewd or lascivious battery.
806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
810.02(2)(a)	1st,PBL	Burglary with assault or battery.
810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or $1,000 or more property damage.
812.13(2)(b)	1st	Robbery with a weapon.
812.135(2)	1st	Home-invasion robbery.
825.102(2)	2nd	Aggravated abuse of an elderly person or disabled adult.
825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at $100,000 or more.
837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
860.16	1st	Aircraft piracy.
893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).

Florida Statute	Felony Degree	Description
893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
893.135 (1)(f)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
893.135 (1)(g)1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
893.135 (1)(h)1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
893.135(1)(j)1.b. ~~893.135(1)(i)1.b.~~	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
893.135(1)(k)2.b. ~~893.135(1)(j)2.b.~~	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
896.101(5)(b)	2nd	Money laundering, financial transactions totaling or exceeding $20,000, but less than $100,000.
896.104(4)(a)2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding $20,000 but less than $100,000.

Florida Statute	Felony Degree	Description
		(i) LEVEL 9
316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding $100,000 by money transmitter.
560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding $100,000.
655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding $100,000 by financial institution.
775.0844 ~~755.0844~~	1st	Aggravated white collar crime.
782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
790.161	1st	Attempted capital destructive device offense.
790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.

Florida Statute	Felony Degree	Description
794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
800.04(5)(b)	1st	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
827.03(2)	1st	Aggravated child abuse.
847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.
893.135	1st	Attempted capital trafficking offense.
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.

Florida Statute	Felony Degree	Description
893.135 (1)(h)1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
893.135(1)(j)1.c. ~~893.135(1)(i)1.c.~~	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
893.135(1)(k)2.c. ~~893.135(1)(j)2.c.~~	1st	Trafficking in Phenethylamines, 400 grams or more.
896.101(5)(c)	1st	Money laundering, financial instruments totaling or exceeding $100,000.
896.104(4)(a)3.	1st	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding $100,000.

Reviser's note.—Paragraph (3)(g) is amended to improve clarity and facilitate correct interpretation. Reference to property stolen, emergency medical equipment is found in s. 812.014(2)(b)3. Paragraph (3)(g) is further amended to conform to the redesignation of s. 893.135(1)(i)1.a. as s. 893.135(1)(j)1.a. and s. 893.135(1)(j)2.a. as s. 893.135(1)(k)2.a. by s. 7, ch. 2001-57, Laws of Florida. Paragraph (3)(h) is amended to conform to the redesignation of s. 893.135(1)(i)1.b. as s. 893.135(1)(j)1.b. and s. 893.135(1)(j)2.b. as s. 893.135(1)(k)2.b. by s. 7, ch. 2001-57. Paragraph (3)(i) is amended to improve clarity and facilitate correct interpretation. Section 755.0844 does not exist. Section 775.0844 relates to white collar crime. Paragraph (3)(i) is further amended to conform to the redesignation of s. 893.135(1)(i)1.c. as s. 893.135(1)(j)1.c. and s. 893.135(1)(j)2.c. as s. 893.135(1)(k)2.c. by s. 7, ch. 2001-57.

Section 119. Subsection (45) of section 985.03, Florida Statutes, is amended to read:

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

(45) "Residential commitment level" means the level of security provided by programs that service the supervision, custody, care, and treatment needs of committed children. Sections 985.3141 and 985.404(11) ~~985.404(13)~~ apply to children placed in programs at any residential commitment level. The levels of residential commitment are as follows:

(a) Low-risk residential.—Programs or program models at this commitment level are residential but may allow youth to have unsupervised access to the community. Youth assessed and classified for placement in programs at this commitment level represent a low risk to themselves and public safety but do require placement and services in residential settings. Children who have been found to have committed delinquent acts that involve firearms, delinquent acts that are sexual offenses, or delinquent acts that

would be life felonies or first degree felonies if committed by an adult shall not be committed to a program at this level.

(b) Moderate-risk residential.—Programs or program models at this commitment level are residential but may allow youth to have supervised access to the community. Facilities are either environmentally secure, staff secure, or are hardware-secure with walls, fencing, or locking doors. Facilities shall provide 24-hour awake supervision, custody, care, and treatment of residents. Youth assessed and classified for placement in programs at this commitment level represent a moderate risk to public safety and require close supervision. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary.

(c) High-risk residential.—Programs or program models at this commitment level are residential and shall not allow youth to have access to the community. Facilities are hardware-secure with perimeter fencing and locking doors. Facilities shall provide 24-hour awake supervision, custody, care, and treatment of residents. Youth assessed and classified for this level of placement require close supervision in a structured residential setting. Placement in programs at this level is prompted by a concern for public safety that outweighs placement in programs at lower commitment levels. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary. The facility may provide for single cell occupancy.

(d) Maximum-risk residential.—Programs or program models at this commitment level include juvenile correctional facilities and juvenile prisons. The programs are long-term residential and shall not allow youth to have access to the community. Facilities are maximum-custody hardware-secure with perimeter security fencing and locking doors. Facilities shall provide 24-hour awake supervision, custody, care, and treatment of residents. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary. The facility shall provide for single cell occupancy, except that youth may be housed together during prerelease transition. Youth assessed and classified for this level of placement require close supervision in a maximum security residential setting. Placement in a program at this level is prompted by a demonstrated need to protect the public.

Reviser's note.—Amended to conform to the redesignation of subunits necessitated by the repeal of former s. 985.404(10) and (11) by s. 41, ch. 2001-125, Laws of Florida.

Section 120. Paragraph (c) of subsection (5) of section 985.04, Florida Statutes, is amended to read:

985.04 Oaths; records; confidential information.—

(5) Notwithstanding any other provisions of this part, the name, photograph, address, and crime or arrest report of a child:

(c) Transferred to the adult system pursuant to s. 985.227, indicted pursuant to s. 985.225, or waived pursuant to s. 985.226 ~~95.226~~;

shall not be considered confidential and exempt from the provisions of s. 119.07(1) solely because of the child's age.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 985.226 relates to waiver of juvenile court jurisdiction and motion to transfer for prosecution as an adult; s. 95.226 does not exist.

Section 121. Subsection (2) of section 985.231, Florida Statutes, is amended to read:

985.231 Powers of disposition in delinquency cases.—

(2) Following a delinquency adjudicatory hearing pursuant to s. 985.228 and a delinquency disposition hearing pursuant to s. 985.23 which results in a commitment determination, the court shall, on its own or upon request by the state or the department, determine whether the protection of the public requires that the child be placed in a program for serious or habitual juvenile offenders and whether the particular needs of the child would be best served by a program for serious or habitual juvenile offenders as provided in s. 985.31. The determination shall be made pursuant to ss. 985.03(48) ~~985.03(46)~~ and 985.23(3).

Reviser's note.—Amended to improve clarity, facilitate correct interpretation, and conform to the redesignation of subunits within s. 985.03 by s. 14, ch. 2001-125, Laws of Florida. "Serious or habitual juvenile offender" is defined and criteria are set out in s. 985.03(48).

Section 122. Paragraph (b) of subsection (4) of section 985.315, Florida Statutes, is amended to read:

985.315 Educational/technical and vocational work-related programs.—

(4)

(b) Evaluations of juvenile educational/technical and vocational work-related programs shall be conducted according to the following guidelines:

1. Systematic evaluations and quality assurance monitoring shall be implemented, in accordance with s. 985.412(1), (2), and (5) ~~985.412(1)~~, to determine whether the programs are related to successful postrelease adjustments.

2. Operations and policies of the programs shall be reevaluated to determine if they are consistent with their primary objectives.

Reviser's note.—Amended to conform to the redesignation of s. 985.412(1) as s. 985.412(1), (2), and (5) by s. 34, ch. 2001-125, Laws of Florida.

Section 123. Subsection (8) of section 985.3155, Florida Statutes, is amended to read:

985.3155 Multiagency plan for vocational education.—

(8) Outcome measures reported by the Department of Juvenile Justice and, the Department of Education~~, and the Juvenile Justice Accountability Board~~ for youth released on or after January 1, 2002, should include outcome measures that conform to the plan.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. The Juvenile Justice Accountability Board does not exist. Section 985.401, which created the Juvenile Justice Advisory Board, was repealed by s. 1, ch. 2001-185, Laws of Florida.

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