CHAPTER 2005-2

Committee Substitute for Senate Bill No. 1336

An act relating to the Florida Statutes; amending ss. 28.246, 28.35, 28.36, 29.21, 34.191, 39.701, 63.087, 63.102, 70.20, 101.161, 112.08, 112.63, 120.536, 211.06, 215.20, 215.555, 216.023, 220.1895, 280.16, 287.042, 287.17, 288.1224, 288.12265, 288.905, 290.00689, 290.015, 311.125, 322.135, 327.395, 339.55, 339.64, 364.604, 373.145, 373.1963, 373.4592, 376.71, 376.80, 378.034, 378.035, 381.0046, 381.0065, 381.103, 381.734, 393.0655, 393.068, 394.499, 394.82, 394.9083, 395.4001, 395.404, 397.416, 397.97, 400.1755, 400.179, 403.4154, 409.2563, 409.907, 409.9071, 409.908, 409.91188, 409.912, 420.504, 430.205, 440.05, 440.491, 440.591, 443.191, 445.003, 445.009, 455.2177, 455.32, 475.615, 489.146, 497.103, 497.140, 497.150, 497.152, 497.153, 497.160, 497.166, 497.167, 497.260, 497.369, 497.453, 497.458, 497.466, 497.550, 497.551, 497.603, 497.604, 497.608, 550.0251, 553.791, 553.8413, 556.112, 558.002, 558.004, 560.408, 570.71, 581.131, 620.9901, 624.426, 626.641, 627.6699, 627.736, 628.909, 633.0215, 636.240, 641.51, 648.50, 650.05, 655.948, 658.60, 663.02, 663.318, 668.602, 717.1400, 720.303, 720.402, 720.405, 744.3678, 744.7021, 782.081, 784.046, 895.02, 921.0022, 932.706, 943.125, 944.026, 944.1905, 944.803, 948.09, 948.30, 957.07, 958.045, 985.404, 1009.765, and 1012.796, F.S.; reenacting ss. 110.161, 288.063, 381.0072, 430.04, 446.051, 450.081, 489.531, 626.112, 718.112, and 721.075, F.S.; and repealing ss. 30.17, 202.205, 288.971, 295.184, 373.1995, 394.498, 570.235, and 627.6685, F.S.; pursuant to s. 11.242, F.S.; deleting provisions that have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; improving the clarity of the statutes and facilitating their correct interpretation; and confirming the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process.

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

Section 1. Subsection (1) of section 28.246, Florida Statutes, is amended to read:

28.246 Payment of court-related fees, charges, and costs; partial payments; distribution of funds.—

(1) ~~Beginning July 1, 2003,~~ The clerk of the circuit court shall report the following information to the Legislature and the Florida Clerks of Court Operations Corporation ~~Clerk of Court Operations Conference~~ on a form developed by the Department of Financial Services:

(a) The total amount of mandatory fees, service charges, and costs; the total amount actually assessed; the total amount discharged, waived, or otherwise not assessed; and the total amount collected.

(b) The amount of discretionary fees, service charges, and costs assessed; the total amount discharged; and the total amount collected.

(c) The total amount of mandatory fines and other monetary penalties; the total amount assessed; the total amount discharged, waived, or otherwise not assessed; and the total amount collected.

(d) The amount of discretionary fines and other monetary penalties assessed; the amount discharged; and the total amount collected.

If provided to the clerk of court by the judge, the clerk, in reporting the amount assessed, shall separately identify the amount assessed pursuant to s. 938.30 as community service; assessed by reducing the amount to a judgment or lien; satisfied by time served; or other. The form developed by the Chief Financial Officer shall include separate entries for recording these amounts. The clerk shall submit the report on ~~a quarterly basis 30 days after the end of the quarter for the period from July 1, 2003, through June 30, 2004, and on~~ an annual basis ~~thereafter~~, 60 days after the end of the county fiscal year.

Reviser's note.—Section 23, ch. 2004-265, Laws of Florida, replaced the Clerk of Court Operations Conference with the Florida Clerks of Court Operations Corporation. Subsection (1) is also amended to delete material that has served its purpose.

Section 2. Paragraph (a) of subsection (3) of section 28.35, Florida Statutes, is amended to read:

28.35 Florida Clerks of Court Operations Corporation.—

(3)(a) The Clerks of Court Operations Corporation shall certify to the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Department of Revenue by October 15 of each year, the amount of the proposed budget certified for each clerk; the revenue projection supporting each clerk's budget; each clerk eligible to retain some or all of the state's share of fines, fees, service charges, and costs; the amount to be paid to each clerk from the Clerks of the Court Trust Fund within the Department of Revenue; the performance measures and standards approved by the corporation ~~conference~~ for each clerk; and the performance of each clerk in meeting the performance standards.

Reviser's note.—Section 23, ch. 2004-265, Laws of Florida, replaced the Clerk of Court Operations Conference with the Florida Clerks of Court Operations Corporation.

Section 3. Paragraph (a) of subsection (3) of section 28.36, Florida Statutes, is amended to read:

28.36 Budget procedure.—There is hereby established a budget procedure for the court-related functions of the clerks of the court.

(3) Each proposed budget shall further conform to the following requirements:

(a) On or before August 1 for each fiscal year thereafter, the proposed budget shall be prepared, summarized, and submitted by the clerk in each county to the Clerks of Court Operations Corporation in the manner and form prescribed by the corporation ~~conference~~. The proposed budget must provide detailed information on the anticipated revenues available and expenditures necessary for the performance of the standard list of court-related functions of the clerk's office developed pursuant to s. 28.35(4)(a) for the county fiscal year beginning the following October 1.

Reviser's note.—Section 23, ch. 2004-265, Laws of Florida, replaced the Clerk of Court Operations Conference with the Florida Clerks of Court Operations Corporation.

Section 4. Section 29.21, Florida Statutes, is amended to read:

29.21 Department of Management Services to provide assistance in procuring services.—In accordance with s. 287.042, the Department of Management Services ~~department~~ may assist the Office of the State Courts Administrator and the Justice Administrative Commission with competitive solicitations for the procurement of state-funded services under this chapter. This may include assistance in the development and review of proposals in compliance with chapter 287, and rules adopted under that chapter.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. The language of this section is derived from subsection (2) of s. 99, ch. 2004-265, Laws of Florida. Subsection (1) of s. 99, ch. 2004-265, provides for certain time-limited duties of the Department of Management Services.

Section 5. Section 30.17, Florida Statutes, is repealed.

Reviser's note.—This section, which relates to docketing newly delivered writs of executions, until October 1, 2001, has served its purpose. The docket of executions was only required to be maintained until October 1, 2003.

Section 6. Section 34.191, Florida Statutes, is amended to read:

34.191 Fines and forfeitures; dispositions.—All fines and forfeitures arising from offenses tried in the county court shall be collected and accounted for by the clerk of the court and, other than the charge provided in s. 318.1215, disbursed in accordance with ss. 28.2402, 34.045, 142.01, and 142.03 ~~142.13~~ and subject to the provisions of s. 28.246(5) and (6). Notwithstanding the provisions of this section, all fines and forfeitures arising from operation of the provisions of s. 318.1215 shall be disbursed in accordance with that section. All fines and forfeitures received from violations of municipal ordinances committed within a municipality within the territorial jurisdiction of the county court, other than the charge provided in s. 318.1215, shall be paid monthly to the municipality except as provided in s. 28.2402(2), s. 34.045(2), s. 318.21, or s. 943.25. All other fines and forfeitures collected by the clerk, other than the charge provided in s. 318.1215, shall be consid-

ered income of the office of the clerk for use in performing court-related duties of the office.

Reviser's note.—Amended to conform to the repeal of s. 142.13 by s. 101, ch. 2004-265, Laws of Florida. Section 142.03 relates to disposition of fines, forfeitures, and civil penalties to municipalities.

Section 7. Paragraph (c) of subsection (2) and paragraph (a) of subsection (9) of section 39.701, Florida Statutes, are amended to read:

39.701 Judicial review.—

(2)

(c) Notice of a hearing by a citizen review panel must be provided as set forth in subsection (5). At the conclusion of a citizen review panel hearing, each party may propose a recommended order to the chairperson of the panel. Thereafter, the citizen review panel shall submit its report, copies of the proposed recommended orders, and a copy of the panel's recommended order to the court. The citizen review panel's recommended order must be limited to the dispositional options available to the court in subsection (9)~~(8)~~. Each party may file exceptions to the report and recommended order of the citizen review panel in accordance with Rule 1.490, Florida Rules of Civil Procedure.

(9)(a) Based upon the criteria set forth in subsection (8)~~(7)~~ and the recommended order of the citizen review panel, if any, the court shall determine whether or not the social service agency shall initiate proceedings to have a child declared a dependent child, return the child to the parent, continue the child in out-of-home care for a specified period of time, or initiate termination of parental rights proceedings for subsequent placement in an adoptive home. Modifications to the plan must be handled as prescribed in s. 39.601. If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home or be safely returned to the home, the court shall allow the child to remain in or return to the home after making a specific finding of fact that the reasons for the creation of the case plan have been remedied to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered.

Reviser's note.—Amended to conform to the redesignation of s. 39.701(8) as s. 39.701(9) and the redesignation of s. 39.701(7) as s. 39.701(8) by s. 2, ch. 2004-362, Laws of Florida.

Section 8. Paragraph (e) of subsection (4) of section 63.087, Florida Statutes, is amended to read:

63.087 Proceeding to terminate parental rights pending adoption; general provisions.—

(4) PETITION.—

(e) The petition must include:

1. The minor's name, gender, date of birth, and place of birth. The petition must contain all names by which the minor is or has been known, excluding the minor's prospective adoptive name but including the minor's legal name at the time of the filing of the petition. In the case of an infant child whose adoptive name appears on the original birth certificate, the adoptive name shall not be included in the petition, nor shall it be included elsewhere in the termination of parental rights proceeding.

2. All information required by the Uniform Child Custody Jurisdiction and Enforcement Act and the Indian Child Welfare Act.

3. A statement of the grounds under s. 63.089 upon which the petition is based.

4. The name, address, and telephone number of any adoption entity seeking to place the minor for adoption.

5. The name, address, and telephone number of the division of the circuit court in which the petition is to be filed.

6. A certification of compliance with the requirements of s. 63.0425 regarding notice to grandparents of an impending adoption.

Reviser's note.—Amended to conform to the repeal and replacement of the Uniform Child Custody Jurisdiction Act with the Uniform Child Custody Jurisdiction and Enforcement Act by chapter 2002-65, Laws of Florida.

Section 9. Subsection (2) of section 63.102, Florida Statutes, is amended to read:

63.102 Filing of petition for adoption or declaratory statement; venue; proceeding for approval of fees and costs.—

(2) VENUE.—A petition for adoption or for a declaratory statement as to the adoption contract shall be filed in the county where the petition for termination of parental rights was granted, unless the court, in accordance with s. 47.122, changes the venue to the county where the petitioner or petitioners or the minor resides or where the adoption entity with which the minor has been placed is located. The circuit court in this state must retain jurisdiction over the matter until a final judgment is entered on the adoption. The Uniform Child Custody Jurisdiction and Enforcement Act does not apply until a final judgment is entered on the adoption.

Reviser's note.—Amended to conform to the repeal and replacement of the Uniform Child Custody Jurisdiction Act with the Uniform Child Custody Jurisdiction and Enforcement Act by chapter 2002-65, Laws of Florida.

Section 10. Subsection (13) of section 70.20, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete obsolete language relating to a study of the value of offsite signs in relation to the valuation of commercial properties for ad valorem tax purposes. The Office of Program Policy Analysis and Government Accountability was to have completed the study by December 31, 2002.

Section 11. Subsection (3) of section 101.161, Florida Statutes, is amended to read:

101.161 Referenda; ballots.—

~~(3)(a) The ballot for the general election in the year 2000 must contain a statement allowing voters to determine whether circuit or county court judges will be selected by merit selection and retention as provided in s. 10, Art. V of the State Constitution. The ballot in each circuit must contain the statement in paragraph (c). The ballot in each county must contain the statement in paragraph (e).~~

(a)~~(b)~~ For any general election in which the Secretary of State, for any circuit, or the supervisor of elections, for any county, has certified the ballot position for an initiative to change the method of selection of judges, the ballot for any circuit must contain the statement in paragraph (b)~~(c)~~ or paragraph (c)~~(d)~~ and the ballot for any county must contain the statement in paragraph (d)~~(e)~~ or paragraph (e)~~(f)~~.

(b)~~(c)~~ In any circuit where the initiative is to change the selection of circuit court judges to selection by merit selection and retention, the ballot shall state: "Shall the method of selecting circuit court judges in the ...(number of the circuit)... judicial circuit be changed from election by a vote of the people to selection by the judicial nominating commission and appointment by the Governor with subsequent terms determined by a retention vote of the people?" This statement must be followed by the word "yes" and also by the word "no."

(c)~~(d)~~ In any circuit where the initiative is to change the selection of circuit court judges to election by the voters, the ballot shall state: "Shall the method of selecting circuit court judges in the ...(number of the circuit)... judicial circuit be changed from selection by the judicial nominating commission and appointment by the Governor with subsequent terms determined by a retention vote of the people to election by a vote of the people?" This statement must be followed by the word "yes" and also by the word "no."

(d)~~(e)~~ In any county where the initiative is to change the selection of county court judges to merit selection and retention, the ballot shall state: "Shall the method of selecting county court judges in ...(name of county)... be changed from election by a vote of the people to selection by the judicial nominating commission and appointment by the Governor with subsequent terms determined by a retention vote of the people?" This statement must be followed by the word "yes" and also by the word "no."

(e)~~(f)~~ In any county where the initiative is to change the selection of county court judges to election by the voters, the ballot shall state: "Shall the method of selecting county court judges in ...(name of the county)... be changed from selection by the judicial nominating commission and appointment by the Governor with subsequent terms determined by a retention vote of the people to election by a vote of the people?" This statement must be followed by the word "yes" and also by the word "no."

Reviser's note.—Amended to delete obsolete language relating to the ballot for the general election in the year 2000.

Section 12. Subsection (3) of section 110.161, Florida Statutes, is reenacted to read:

110.161 State employees; pretax benefits program.—

(3) It is found and declared that the maintenance of a system of personnel management which ensures the state the delivery of high-quality performance by employees is facilitated by the state's ability to attract and retain qualified personnel. The Legislature recognizes that the public interest is best served by development of a benefits program which is not only cost-efficient but sufficiently flexible to meet the individual needs of its employees.

Reviser's note.—Section 6, ch. 2004-347, Laws of Florida, purported to amend subsections (2) and (3) but actually amended subsections (2) and (7), failing to publish subsection (3). Absent affirmative evidence that the Legislature intended to repeal it, subsection (3) is reenacted to confirm that the omission was not intended.

Section 13. Paragraph (b) of subsection (2) of section 112.08, Florida Statutes, is amended to read:

112.08 Group insurance for public officers, employees, and certain volunteers; physical examinations.—

(2)

(b) In order to obtain approval from the Office of Insurance Regulation of any self-insured plan for health, accident, and hospitalization coverage, each local governmental unit or consortium shall submit its plan along with a certification as to the actuarial soundness of the plan, which certification is prepared by an actuary who is a member of the Society of Actuaries or the American Academy of Actuaries. The Office of Insurance Regulation shall not approve the plan unless it determines that the plan is designed to provide sufficient revenues to pay current and future liabilities, as determined according to generally accepted actuarial principles. After implementation of an approved plan, each local governmental unit or consortium shall annually submit to the Office of Insurance Regulation a report which includes a statement prepared by an actuary who is a member of the Society of Actuaries or the American Academy of Actuaries as to the actuarial soundness of the plan. The report is due 90 days after the close of the fiscal year of the plan. The report shall consist of, but is not limited to:

1. The adequacy of contribution rates in meeting the level of benefits provided and the changes, if any, needed in the contribution rates to achieve or preserve a level of funding deemed adequate to enable payment of the benefit amounts provided under the plan and a valuation of present assets, based on statement value, and prospective assets and liabilities of the plan and the extent of any unfunded accrued liabilities.

2. A plan to amortize any unfunded liabilities and a description of actions taken to reduce unfunded liabilities.

3. A description and explanation of actuarial assumptions.

4. A schedule illustrating the amortization of any unfunded liabilities.

5. A comparative review illustrating the level of funds available to the plan from rates, investment income, and other sources realized over the period covered by the report with the assumptions used.

6. A statement by the actuary that the report is complete and accurate and that in the actuary's opinion the techniques and assumptions used are reasonable and meet the requirements and intent of this subsection.

7. Other factors or statements as required by the office ~~Department of Insurance~~ in order to determine the actuarial soundness of the plan.

All assumptions used in the report shall be based on recognized actuarial principles acceptable to the Office of Insurance Regulation. The office shall review the report and shall notify the administrator of the plan and each entity participating in the plan, as identified by the administrator, of any actuarial deficiencies. Each local governmental unit is responsible for payment of valid claims of its employees that are not paid within 60 days after receipt by the plan administrator or consortium.

Reviser's note.—Amended to conform to the transfer of certain functions of the Department of Insurance to the Office of Insurance Regulation of the Department of Financial Services by ch. 2002-404, Laws of Florida.

Section 14. Subsection (2) of section 112.63, Florida Statutes, is amended to read:

112.63 Actuarial reports and statements of actuarial impact; review.—

(2) The frequency of actuarial reports must be at least every 3 years commencing from the last actuarial report of the plan or system or October 1, 1980, if no actuarial report has been issued within the 3-year period prior to October 1, 1979. The results of each actuarial report shall be filed with the plan administrator within 60 days of certification. Thereafter, the results of each actuarial report shall be made available for inspection upon request. Additionally, each retirement system or plan covered by this act which is not administered directly by the Department of Management Services shall furnish a copy of each actuarial report to the Department of Management Services within 60 days after receipt from the actuary. The requirements of this section are supplemental to actuarial valuations necessary to comply with the requirements of s. ~~ss. 218.321 and~~ 218.39.

Reviser's note.—Amended to conform to the repeal of s. 218.321 by s. 27, ch. 2004-305, Laws of Florida.

Section 15. Paragraph (a) of subsection (2) and subsection (3) of section 120.536, Florida Statutes, are repealed, and paragraph (b) of subsection (2) of that section is amended to read:

120.536 Rulemaking authority; listing of rules exceeding authority; repeal; challenge.—

(2)

~~(b) By October 1, 1999, each agency shall provide to the Administrative Procedures Committee a listing of each rule, or portion thereof, adopted by that agency before June 18, 1999, which exceeds the rulemaking authority permitted by this section. For those rules of which only a portion exceeds the rulemaking authority permitted by this section, the agency shall also identify the language of the rule which exceeds this authority. The Administrative Procedures Committee shall combine the lists and provide the cumulative listing to the President of the Senate and the Speaker of the House of Representatives. The Legislature shall, at the 2000 Regular Session, consider whether specific legislation authorizing the identified rules, or portions thereof, should be enacted. By January 1, 2001, each agency shall initiate proceedings pursuant to s. 120.54 to repeal each rule, or portion thereof, identified as exceeding the rulemaking authority permitted by this section for which authorizing legislation does not exist. By February 1, 2001, the Administrative Procedures Committee shall submit to the President of the Senate and the Speaker of the House of Representatives a report identifying those rules that an agency had previously identified as exceeding the rulemaking authority permitted by this section for which proceedings to repeal the rule have not been initiated. As of July 1, 2001,~~ The Administrative Procedures Committee or any substantially affected person may petition an agency to repeal any rule, or portion thereof, because it exceeds the rulemaking authority permitted by this section. Not later than 30 days after the date of filing the petition if the agency is headed by an individual, or not later than 45 days if the agency is headed by a collegial body, the agency shall initiate rulemaking proceedings to repeal the rule, or portion thereof, or deny the petition, giving a written statement of its reasons for the denial.

Reviser's note.—Amended to delete provisions that have served their purpose. Paragraph (2)(a) related to a review of all rules adopted prior to October 1, 1996. Subsection (3) related to challenges to certain rules during the rule review process.

Section 16. Section 202.205, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete obsolete language relating to transitional rates for local communications services.

Section 17. Subsection (2) of section 211.06, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete an obsolete provision. This provision governs distributions for proceeds remaining in the Oil and Gas Tax Trust Fund through June 30, 1995.

Section 18. Subparagraph 8. of paragraph (j) of subsection (4) of section 215.20, Florida Statutes, is repealed.

Reviser's note.—Repealed to conform to the termination of the Forfeited Property Trust Fund by s. 1, ch. 2004-234, Laws of Florida, and the transfer

of current balances and revenues to the Internal Improvement Trust Fund. The Internal Improvement Trust Fund is already included in the list of funds under the Department of Environmental Protection in paragraph (4)(j).

Section 19. Paragraph (b) of subsection (6) of section 215.555, Florida Statutes, is amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(6) REVENUE BONDS.—

(b) Emergency assessments.—

1. If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy, by order, an emergency assessment on direct premiums for all property and casualty lines of business in this state, including property and casualty business of surplus lines insurers regulated under part VIII of chapter 626, but not including any workers' compensation premiums or medical malpractice premiums. As used in this subsection, the term "property and casualty business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers by s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance Program. The assessment shall be specified as a percentage of future premium collections and is subject to annual adjustments by the board to reflect changes in premiums subject to assessments collected under this subparagraph in order to meet debt obligations. The same percentage shall apply to all policies in lines of business subject to the assessment issued or renewed during the 12-month period beginning on the effective date of the assessment.

2. A premium is not subject to an annual assessment under this paragraph in excess of 6 percent of premium with respect to obligations arising out of losses attributable to any one contract year, and a premium is not subject to an aggregate annual assessment under this paragraph in excess of 10 percent of premium. An annual assessment under this paragraph shall continue until the revenue bonds issued with respect to which the assessment was imposed are outstanding, including any bonds the proceeds of which were used to refund the revenue bonds, unless adequate provision has been made for the payment of the bonds under the documents authorizing issuance of the bonds.

3. With respect to each insurer collecting premiums that are subject to the assessment, the insurer shall collect the assessment at the same time as it collects the premium payment for each policy and shall remit the assessment collected to the fund or corporation as provided in the order issued by the Office of Insurance Regulation. The office shall verify the accurate and timely collection and remittance of emergency assessments

and shall report the information to the board in a form and at a time specified by the board. Each insurer collecting assessments shall provide the information with respect to premiums and collections as may be required by the office to enable the office to monitor and verify compliance with this paragraph.

4. With respect to assessments of surplus lines premiums, each surplus lines agent shall collect the assessment at the same time as the agent collects the surplus lines tax required by s. 626.932, and the surplus lines agent shall remit the assessment to the Florida Surplus Lines Service Office created by s. 626.921 at the same time as the agent remits the surplus lines tax to the Florida Surplus Lines Service Office. The emergency assessment on each insured procuring coverage and filing under s. 626.938 shall be remitted by the insured to the Florida Surplus Lines Service Office at the time the insured pays the surplus lines tax to the Florida Surplus Lines Service Office. The Florida Surplus Lines Service Office shall remit the collected assessments to the fund or corporation as provided in the order levied by the Office of Insurance Regulation. The Florida Surplus Lines Service Office shall verify the proper application of such emergency assessments and shall assist the board in ensuring the accurate and timely collection and remittance of assessments as required by the board. The Florida Surplus Lines Service Office shall annually calculate the aggregate written premium on property and casualty business, other than workers' compensation and medical malpractice, procured through surplus lines agents and insureds procuring coverage and filing under s. 626.938 and shall report the information to the board in a form and at a time specified by the board.

5. Any assessment authority not used for a particular contract year may be used for a subsequent contract year. If, for a subsequent contract year, the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy an emergency assessment up to an amount not exceeding the amount of unused assessment authority from a previous contract year or years, plus an additional 4 percent provided that the assessments in the aggregate do not exceed the limits specified in subparagraph 2.

6. The assessments otherwise payable to the corporation under this paragraph shall be paid to the fund unless and until the Office of Insurance Regulation and the Florida Surplus Lines Service Office have received from the corporation and the fund a notice, which shall be conclusive and upon which they may rely without further inquiry, that the corporation has issued bonds and the fund has no agreements in effect with local governments under paragraph (c). On or after the date of the notice and until the date the corporation has no bonds outstanding, the fund shall have no right, title, or interest in or to the assessments, except as provided in the fund's agreement with the corporation.

7. Emergency assessments are not premium and are not subject to the premium tax, to the surplus lines tax, to any fees, or to any commissions.

An insurer is liable for all assessments that it collects and must treat the failure of an insured to pay an assessment as a failure to pay the premium. An insurer is not liable for uncollectible assessments.

8. When an insurer is required to return an unearned premium, it shall also return any collected assessment attributable to the unearned premium. A credit adjustment to the collected assessment may be made by the insurer with regard to future remittances that are payable to the fund or corporation, but the insurer is not entitled to a refund.

9. When a surplus lines insured or an insured who has procured coverage and filed under s. 626.938 is entitled to the return of an unearned premium, the Florida Surplus Lines Service Office shall provide a credit or refund to the agent or such insured for the collected assessment attributable to the unearned premium prior to remitting the emergency assessment collected to the fund or corporation.

10. The exemption of medical malpractice insurance premiums from emergency assessments under this paragraph is repealed May 31, 2007, and medical malpractice insurance premiums shall be subject to emergency assessments attributable to loss events occurring in the contract years commencing on June 1, 2007.

Reviser's note.—Amended to conform to the correct name of the Florida Surplus Lines Service Office as referenced elsewhere in that paragraph.

Section 20. Subsection (5) of section 216.023, Florida Statutes, is amended to read:

216.023 Legislative budget requests to be furnished to Legislature by agencies.—

(5) At the time specified in the legislative budget instructions and in sufficient time to be included in the Governor's recommended budget, the judicial branch is required to submit a performance-based program budget request. The Chief Justice of the Supreme Court shall identify and, after consultation with the Office of Program Policy Analysis and Government Accountability, submit to the President of the Senate and the Speaker of the House of Representatives a list of proposed programs and associated performance measures. The judicial branch shall provide documentation to accompany the list of proposed programs and performance measures as provided under subsection (4). The judicial branch shall submit a performance-based program agency budget request using the programs and performance measures adopted by the Legislature. The Chief Justice may propose revisions to approved programs or performance measures for the judicial branch. The Legislature shall have final approval of all programs and associated performance measures and standards for the judicial branch through the General Appropriations Act or legislation implementing the General Appropriations Act. ~~By September 15, 2001, the Chief Justice of the Supreme Court shall submit to the President of the Senate and the Speaker of the House of Representatives a performance-based program budget request for programs of the judicial branch approved by the Legislature and provide a copy to the Executive Office of the Governor.~~

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

Section 21. Section 220.1895, Florida Statutes, is amended to read:

220.1895 Rural Job Tax Credit and Urban High-Crime Area Job Tax Credit.—There shall be allowed a credit against the tax imposed by this chapter amounts approved by the Office of Tourism, Trade, and Economic Development pursuant to the Rural Job Tax Credit Program in s. 212.098 and the Urban High-Crime Area Job Tax Credit Program in s. 212.097. A corporation that uses its credit against the tax imposed by this chapter may not take the credit against the tax imposed by chapter 212. If any credit granted under this section is not fully used in the first year for which it becomes available, the unused amount may be carried forward for a period not to exceed 5 years. The carryover may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year under this section after applying the other credits and unused credit carryovers in the order provided in s. 220.02(8). ~~The Office of Tourism, Trade, and Economic Development shall conduct a review of the Urban High-Crime Area Job Tax Credit and the Rural Job Tax Credit Program and submit its report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2000.~~

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

Section 22. Paragraph (d) of subsection (1) of section 280.16, Florida Statutes, is amended to read:

280.16 Requirements of qualified public depositories; confidentiality.—

(1) In addition to any other requirements specified in this chapter, qualified public depositories shall:

(d) Submit to the Chief Financial Officer annually, not later than November 30, a report of all public deposits held for the credit of all public depositors at the close of business on September 30. Such annual report shall consist of public deposit information in a report format prescribed by the Chief Financial Officer. The manner of required filing may be as a signed writing or electronic data transmission, at the discretion of the Chief Financial Officer ~~Treasurer~~.

Reviser's note.—Amended to conform to the redesignation of the Treasurer as the Chief Financial Officer by ch. 2002-404, Laws of Florida.

Section 23. Paragraph (b) of subsection (3) of section 287.042, Florida Statutes, is amended to read:

287.042 Powers, duties, and functions.—The department shall have the following powers, duties, and functions:

(3) To establish a system of coordinated, uniform procurement policies, procedures, and practices to be used by agencies in acquiring commodities and contractual services, which shall include, but not be limited to:

(b)1. Development of procedures for advertising solicitations. These procedures must provide for electronic posting of solicitations for at least 10 days before the date set for receipt of bids, proposals, or replies, unless the department or other agency determines in writing that a shorter period of time is necessary to avoid harming the interests of the state. The Office of Supplier Diversity may consult with the department regarding the development of solicitation distribution procedures to ensure that maximum distribution is afforded to certified minority business enterprises as defined in s. 288.703.

2. Development of procedures for electronic posting. The department shall designate a centralized website on the Internet for the department and other agencies to electronically post solicitations, decisions or intended decisions, and other matters relating to procurement. ~~From July 1, 2002, until July 1, 2003, the department shall publish a notice in each edition of the Florida Administrative Weekly which indicates the specific URL or Internet address for the centralized website.~~

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

Section 24. Subsection (5) of section 287.17, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete an obsolete provision. The required reviews of motor vehicle use were to be conducted by December 31, 2000.

Section 25. Subsection (10) of section 288.063, Florida Statutes, is reenacted to read:

288.063 Contracts for transportation projects.—

(10) In addition to the other provisions of this section, projects that the Legislature deems necessary to facilitate the economic development and growth of the state may be designated and funded in the General Appropriations Act. Such transportation projects create new employment opportunities, expand transportation infrastructure, improve mobility, or increase transportation innovation. The Office of Tourism, Trade, and Economic Development shall enter into contracts with, and make expenditures to, the appropriate entities for the costs of transportation projects designated in the General Appropriations Act.

Reviser's note.—Subsection (10) was amended by s. 7, ch. 2004-242, Laws of Florida, to delete the July 1, 2003, repeal formerly set out in the section. Section 5, ch. 2004-6, a reviser's bill, repealed the subsection pursuant to the July 1, 2003, repeal. Absent affirmative evidence of legislative intent to repeal it, subsection (10) is reenacted to confirm its status.

Section 26. Paragraph (e) of subsection (4) of section 288.1224, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete an obsolete provision. The required review and subsequent report were to be completed by January 1, 2003.

Section 27. Section 288.12265, Florida Statutes, is amended to read:

288.12265 Welcome centers.—

(1) ~~Effective July 1, 1999,~~ Responsibility for the welcome centers is assigned to the Florida Commission on Tourism which shall contract with the commission's direct-support organization to employ all welcome center staff. ~~On or before June 30, 1999, all welcome center staff shall be offered employment through the direct-support organization at the same salary such staff received through the Department of Transportation, prior to July 1, 1999, but with the same benefits provided by the direct-support organization to the organization's employees. Welcome center employees shall have until January 1, 2000, to choose to be employed by the direct-support organization or to remain employed by the state. Those employees who choose to remain employed by the state may continue to be assigned by the Department of Transportation to the welcome centers until June 30, 2001. Upon vacating a career service position by a career service employee, the position shall be abolished. The agreement between the Department of Transportation and the Florida Commission on Tourism concerning the funding of positions in the welcome centers shall continue until all welcome center employees are employed by the direct-support organization, or until those employees choosing to remain employed by the state have found other state employment, or until June 30, 2001, whichever occurs first.~~

(2) ~~Effective July 1, 1999,~~ The Florida Commission on Tourism, through its direct-support organization, shall administer and operate the welcome centers. Pursuant to a contract with the Department of Transportation, the commission shall be responsible for routine repair, replacement, or improvement and the day-to-day management of interior areas occupied by the welcome centers. All other repairs, replacements, or improvements to the welcome centers shall be the responsibility of the Department of Transportation.

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

Section 28. Paragraph (c) of subsection (4) of section 288.905, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete a provision that has served its purpose. The required review and subsequent report were to be completed by January 1, 2002.

Section 29. Section 288.971, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete findings which have served their purpose. The findings refer to military base closing decisions expected to be made in 1995 and reductions in military spending and personnel by 1997.

Section 30. Subsection (6) of section 290.00689, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete obsolete provisions. The required review and evaluation of an enterprise zone pilot project area was to be

completed prior to the 2004 Regular Session of the Legislature. The report of findings and recommendations was to be submitted by January 15, 2004.

Section 31. Subsection (3) of section 290.015, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete an obsolete provision. The required review and evaluation of ss. 290.001-290.016 by substantive committees was to be completed prior to the 2001 Regular Session of the Legislature.

Section 32. Section 295.184, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete provisions that have served their purpose. The recommendations for the design and location of the memorial to Florida World War II veterans was to be submitted on or before January 31, 2002.

Section 33. Paragraph (a) of subsection (2) of section 311.125, Florida Statutes, is amended to read:

311.125 Uniform Port Access Credential System.—

(2)(a) The Department of Highway Safety and Motor Vehicles, in consultation with the Department of Law Enforcement, the Florida Seaport Transportation and Economic Development Council, the Florida Trucking Association, and the United States Transportation ~~and~~ Security Administration shall develop a Uniform Port Access Credential System for use in onsite verification of access authority for all persons on a seaport as defined in s. 311.12(2), utilizing the Uniform Port Access Credential Card as authorized herein. Each seaport, in a manner consistent with the "Port Security Standards Compliance Plan" delivered to the Speaker of the House of Representatives and the President of the Senate on December 11, 2000, pursuant to s. 311.12, and this section, is responsible for granting, restricting, or modifying access authority provided to each Uniform Port Access Credential Card holder and promptly communicating the levels of access or changes in the level of access to the department for its use in administering the Uniform Port Access Credential System. Each seaport is responsible for the proper operation and maintenance of the Uniform Port Access Credential Card reader and access verification utilizing the Uniform Port Access Credential System at its location. The Uniform Port Access Credential Card reader and Uniform Port Access Credential System shall be utilized by each seaport to ensure compliance with the access restrictions provided by s. 311.12.

Reviser's note.—Amended to conform to the correct title of the United States Transportation Security Administration.

Section 34. Paragraph (b) of subsection (5) and subsection (6) of section 322.135, Florida Statutes, are amended to read:

322.135 Driver's license agents.—

(5) The county tax collector at his or her option may apply to the department for approval by the executive director to be the exclusive agent of the

department for his or her county to administer driver license services as provided and authorized in this chapter.

(b) The department shall provide a form for such application, which shall include the following information ~~unless this information has been included in the report submitted by the Cost Determination and Allocation Task Force~~:

1. Locations within the county where offices and branch offices for driver license services are proposed.

2. The designation by the tax collector of the driver license functions to be performed by the tax collector in the county.

3. Any anticipated capital acquisition or construction costs.

4. A projection of equipment available or to be provided by the department.

5. All anticipated operating costs, including facilities, equipment, and personnel to administer driver license services.

(6) Administration of driver license services by a county tax collector as the exclusive agent of the department must be revenue neutral with no adverse state fiscal impact and with no adverse unfunded mandate to the tax collector. ~~Toward this end, the Cost Determination and Allocation Task Force is created, to be established by July 1, 2001. The task force shall be composed of two representatives appointed by the executive director of the department, two tax collectors appointed by the president of the Florida Tax Collectors, Inc., one from a small-population county and one from a large-population county; one person appointed by the Speaker of the House of Representatives; one person appointed by the President of the Senate; and the Governor's appointee. If requested by the task force, the Auditor General must provide technical assistance. The purpose of the task force is to recommend the allocation of cost between the Department of Highway Safety and Motor Vehicles and tax collectors to administer driver license services authorized in this chapter. These recommendations must be submitted in a written report by January 1, 2002. The task force shall dissolve on January 1, 2002. The written report shall be presented to the President of the Senate, the Speaker of the House of Representatives, and the Executive Office of the Governor, and shall contain findings and determinations and related allocation recommendations dealing with costs, both construction and operating costs, of both the department and the applicable tax collectors, appropriate allocations of costs between the department and the tax collectors, and fee recommendations to assure that the fees paid for these driver license services do not result in a loss of revenue to the state in excess of costs incurred by the state.~~

Reviser's note.—Amended to delete obsolete provisions. The Cost Determination and Allocation Task Force was dissolved in 2002.

Section 35. Subsection (1) of section 327.395, Florida Statutes, is amended to read:

327.395 Boating safety identification cards.—

(1) ~~Until October 1, 2001, a person born after September 30, 1980, and on or after October 1, 2001,~~ A person 21 years of age or younger may not operate a vessel powered by a motor of 10 horsepower or greater unless such person has in his or her possession aboard the vessel photographic identification and a boater safety identification card issued by the commission which shows that he or she has:

(a) Completed a commission-approved boater education course that meets the minimum 8-hour instruction requirement established by the National Association of State Boating Law Administrators;

(b) Passed a course equivalency examination approved by the commission; or

(c) Passed a temporary certificate examination developed or approved by the commission.

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

Section 36. Subsection (4) of section 339.55, Florida Statutes, is amended to read:

339.55 State-funded infrastructure bank.—

(4) ~~Except as provided in s. 339.137,~~ To be eligible for consideration, projects must be consistent, to the maximum extent feasible, with local metropolitan planning organization plans and local government comprehensive plans and must provide a dedicated repayment source to ensure the loan is repaid to the bank.

Reviser's note.—Amended to conform to the repeal of s. 339.137 by s. 10, ch. 2004-366, Laws of Florida.

Section 37. Subsection (2) of section 339.64, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete an obsolete provision. The required report was to be delivered to the Governor and Legislature by December 15, 2003.

Section 38. Subsection (1) of section 364.604, Florida Statutes, is amended to read:

364.604 Billing practices.—

(1) Each billing party must clearly identify on its bill the name and toll-free number of the originating party; the telecommunications service or information service billed; and the specific charges, taxes, and fees associated with each telecommunications or information service. The originating party is responsible for providing the billing party with all required information. The toll-free number of the originating party or its agent must be answered by a customer service representative or a voice response unit. If the customer reaches a voice response unit, the originating party or its agent

must initiate a response to a customer inquiry within 24 hours, excluding weekends and holidays. ~~Each telecommunications carrier shall have until June 30, 1999, to comply with this subsection.~~

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

Section 39. Section 373.145, Florida Statutes, is amended to read:

373.145 Information program regarding hydrologic conditioning and consumption of major surface and groundwater sources.—In order to aid in the development of a better understanding of the unique surface and groundwater resources of this state, the water management districts shall develop an information program designed to provide information concerning existing hydrologic conditions of major surface and groundwater sources in this state and suggestions for good conservation practices within those areas. ~~The program shall be developed by December 31, 2002.~~ Beginning January 1, 2003, and on a regular basis no less than every 6 months thereafter, the information developed pursuant to this section shall be distributed to every member of the Florida Senate and the Florida House of Representatives and to local print and broadcast news organizations. Each water management district shall be responsible for the distribution of this information within its established geographic area.

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

Section 40. Paragraph (f) of subsection (1) of section 373.1963, Florida Statutes, is amended to read:

373.1963 Assistance to West Coast Regional Water Supply Authority.—

(1) It is the intent of the Legislature to authorize the implementation of changes in governance recommended by the West Coast Regional Water Supply Authority in its reports to the Legislature dated February 1, 1997, and January 5, 1998. The authority and its member governments may reconstitute the authority's governance and rename the authority under a voluntary interlocal agreement with a term of not less than 20 years. The interlocal agreement must comply with this subsection as follows:

(f) Upon execution of the voluntary interlocal agreement provided for herein, the authority shall jointly develop with the Southwest Florida Water Management District alternative sources of potable water and transmission pipelines to interconnect regionally significant water supply sources and facilities of the authority in amounts sufficient to meet the needs of all member governments for a period of at least 20 years and for natural systems. Nothing herein, however, shall preclude the authority and its member governments from developing traditional water sources pursuant to the voluntary interlocal agreement. Development and construction costs for alternative source facilities, which may include a desalination facility and significant regional interconnects, must be borne as mutually agreed to by both the authority and the Southwest Florida Water Management District. Nothing herein shall preclude authority or district cost sharing with private entities for the construction or ownership of alternative source facilities. By

December 31, 1997, the authority and the Southwest Florida Water Management District shall~~:1.~~ enter into a mutually acceptable agreement detailing the development and implementation of directives contained in this paragraph.~~; or~~

~~2. Jointly prepare and submit to the President of the Senate and the Speaker of the House of Representatives a report describing the progress made and impediments encountered in their attempts to implement the water resource development and water supply development directives contained in this paragraph.~~ Nothing in this section shall be construed to modify the rights or responsibilities of the authority or its member governments, except as otherwise provided herein, or of the Southwest Florida Water Management District or the department pursuant to this chapter or chapter 403 and as otherwise set forth by statutes.

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

Section 41. Section 373.1995, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete an obsolete provision. The required report and subsequent action were to be completed prior to the beginning of the 2001 Regular Legislative Session.

Section 42. Paragraph (f) of subsection (4) of section 373.4592, Florida Statutes, is amended to read:

373.4592 Everglades improvement and management.—

(4) EVERGLADES PROGRAM.—

(f) EAA best management practices.—

1. The district, in cooperation with the department, shall develop and implement a water quality monitoring program to evaluate the effectiveness of the BMPs in achieving and maintaining compliance with state water quality standards and restoring and maintaining designated and existing beneficial uses. The program shall include an analysis of the effectiveness of the BMPs in treating constituents that are not being significantly improved by the STAs. The monitoring program shall include monitoring of appropriate parameters at representative locations.

2. The district shall continue to require and enforce the BMP and other requirements of chapters 40E-61 and 40E-63, Florida Administrative Code, during the terms of the existing permits issued pursuant to those rules. Chapter 40E-61, Florida Administrative Code, may be amended to include the BMPs required by chapter 40E-63, Florida Administrative Code. Prior to the expiration of existing permits, and during each 5-year term of subsequent permits as provided for in this section, those rules shall be amended to implement a comprehensive program of research, testing, and implementation of BMPs that will address all water quality standards within the EAA and Everglades Protection Area. Under this program:

a. EAA landowners, through the EAA Environmental Protection District or otherwise, shall sponsor a program of BMP research with qualified experts to identify appropriate BMPs.

b. Consistent with the water quality monitoring program, BMPs will be field-tested in a sufficient number of representative sites in the EAA to reflect soil and crop types and other factors that influence BMP design and effectiveness.

c. BMPs as required for varying crops and soil types shall be included in permit conditions in the 5-year permits issued pursuant to this section.

d. The district shall conduct research in cooperation with EAA landowners to identify water quality parameters that are not being significantly improved either by the STAs or the BMPs, and to identify further BMP strategies needed to address these parameters.

3. The Legislature finds that through the implementation of the Everglades BMPs Program and the implementation of the Everglades Construction Project, reasonable further progress will be made towards addressing water quality requirements of the EAA canals and the Everglades Protection Area. Permittees within the EAA and the C-139 Basin who are in full compliance with the conditions of permits under chapters 40E-61 and 40E-63, Florida Administrative Code, have made all payments required under the Everglades Program, and are in compliance with subparagraph (a)7.~~(a)8.~~, if applicable, shall not be required to implement additional water quality improvement measures, prior to December 31, 2006, other than those required by subparagraph 2., with the following exceptions:

a. Nothing in this subparagraph shall limit the existing authority of the department or the district to limit or regulate discharges that pose a significant danger to the public health and safety; and

b. New land uses and new stormwater management facilities other than alterations to existing agricultural stormwater management systems for water quality improvements shall not be accorded the compliance established by this section. Permits may be required to implement improvements or alterations to existing agricultural water management systems.

4. As of December 31, 2006, all permits, including those issued prior to that date, shall require implementation of additional water quality measures, taking into account the water quality treatment actually provided by the STAs and the effectiveness of the BMPs. As of that date, no permittee's discharge shall cause or contribute to any violation of water quality standards in the Everglades Protection Area.

5. Effective immediately, landowners within the C-139 Basin shall not collectively exceed an annual average loading of phosphorus based proportionately on the historical rainfall for the C-139 Basin over the period of October 1, 1978, to September 30, 1988. New surface inflows shall not increase the annual average loading of phosphorus stated above. Provided that the C-139 Basin does not exceed this annual average loading, all landowners within the Basin shall be in compliance for that year. Compliance

determinations for individual landowners within the C-139 Basin for remedial action, if the Basin is determined by the district to be out of compliance for that year, shall be based on the landowners' proportional share of the total phosphorus loading. The total phosphorus discharge load shall be determined as set forth in Appendix B2 of Rule 40E-63, Everglades Program, Florida Administrative Code.

6. The district, in cooperation with the department, shall develop and implement a water quality monitoring program to evaluate the quality of the discharge from the C-139 Basin. Upon determination by the department or the district that the C-139 Basin is exceeding any presently existing water quality standards, the district shall require landowners within the C-139 Basin to implement BMPs appropriate to the land uses within the C-139 Basin consistent with subparagraph 2. Thereafter, the provisions of subparagraphs 2.-4. shall apply to the landowners within the C-139 Basin.

Reviser's note.—Amended to conform to the redesignation of subparagraph (4)(a)8. as subparagraph (4)(a)7. by s. 1, ch. 2003-12, Laws of Florida.

Section 43. Section 376.71, Florida Statutes, is amended to read:

376.71 Registration fee and gross receipts tax.—The registration fee and the gross receipts tax imposed under ss. 376.303(1)(d) and 376.70 do not apply to uniform rental companies or linen supply companies. ~~Any such fee or tax that was imposed on and remitted, collected, or held in escrow by a uniform rental company or linen supply company from October 1, 1994, and before October 1, 1995, is not payable to the State of Florida, and, if remitted, shall be refunded by the Department of Revenue.~~

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

Section 44. Paragraph (c) of subsection (7) of section 376.80, Florida Statutes, is amended to read:

376.80 Brownfield program administration process.—

(7) The contractor who is performing the majority of the site rehabilitation program tasks pursuant to a brownfield site rehabilitation agreement or supervising the performance of such tasks by licensed subcontractors in accordance with the provisions of s. 489.113(9) must certify to the department that the contractor:

(c) Maintains comprehensive general liability coverage with limits of not less than $1 million per occurrence and $2 million general aggregate for bodily injury and property damage and comprehensive automobile liability coverage with limits of not less than $2 ~~$1~~ million combined single limit. The contractor shall also maintain pollution liability coverage with limits of not less than $3 million aggregate for personal injury or death, $1 million per occurrence for personal injury or death, and $1 million per occurrence for property damage. The contractor's certificate of insurance shall name the state as an additional insured party.

Reviser's note.—Amended to correct an apparent coding error. The figure "$1" was inadvertently retained when the paragraph was amended by s. 2, ch. 2004-40, Laws of Florida.

Section 45. Subsection (7) of section 378.034, Florida Statutes, is amended to read:

378.034 Submission of a reclamation program request; procedures.—

(7) ~~Until 1995, the funds available for approved reclamation contracts and acquisitions of nonmandatory lands shall not exceed 20 percent of the uncommitted fund balance of the trust fund at the beginning of each year.~~ The prioritized list approved by the committee may contain more reclamation program applications than there are funds available during the year.

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

Section 46. Paragraph (b) of subsection (5) of section 378.035, Florida Statutes, is amended to read:

378.035 Department responsibilities and duties with respect to Nonmandatory Land Reclamation Trust Fund.—

(5) Funds within the Nonmandatory Land Reclamation Trust Fund are also authorized for use by the department for the following purposes:

(b) For the abatement of an imminent hazard as provided by s. 403.4154(3) ~~403.4154(4)~~ and for the purpose of closing an abandoned phosphogypsum stack system and carrying out postclosure care as provided by s. 403.4154(5) ~~403.4154(6)~~.

Reviser's note.—Amended to correct an apparent error in the redesignation of cross-references by s. 4, ch. 2003-423, Laws of Florida. Section 403.4154(4) relates to registration fees, and s. 403.4154(6) does not exist.

Section 47. Subsection (3) of section 381.0046, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete an obsolete provision. The statewide Black Leadership Conference on HIV and AIDS was to be conducted by January 2000.

Section 48. Paragraph (j) of subsection (3) and paragraph (j) of subsection (4) of section 381.0065, Florida Statutes, are amended to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(3) DUTIES AND POWERS OF THE DEPARTMENT OF HEALTH.—The department shall:

(j) Supervise research on, demonstration of, and training on the performance, environmental impact, and public health impact of onsite sewage treatment and disposal systems within this state. Research fees collected under s. 381.0066(2)(k) must be used to develop and fund hands-on training centers designed to provide practical information about onsite sewage treatment and disposal systems to septic tank contractors, master septic tank contractors, contractors, inspectors, engineers, and the public and must also be used to fund research projects which focus on improvements of onsite

sewage treatment and disposal systems, including use of performance-based standards and reduction of environmental impact. Research projects shall be initially approved by the technical review and advisory panel and shall be applicable to and reflect the soil conditions specific to Florida. Such projects shall be awarded through competitive negotiation, using the procedures provided in s. 287.055, to public or private entities that have experience in onsite sewage treatment and disposal systems in Florida and that are principally located in Florida. Research projects shall not be awarded to firms or entities that employ or are associated with persons who serve on either the technical review and advisory panel or the research review and advisory committee.

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section, but shall not make the issuance of such permits contingent upon prior approval by the Department of Environmental Protection. A construction permit is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit must be obtained prior to the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit for a commercial wastewater system is valid for 1 year from the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years from the date of issuance and must be renewed every 2 years. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a

building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(j) An onsite sewage treatment and disposal system for a single-family residence that is designed by a professional engineer registered in the state and certified by such engineer as complying with performance criteria adopted by the department must be approved by the department subject to the following:

1. The performance criteria applicable to engineer-designed systems must be limited to those necessary to ensure that such systems do not adversely affect the public health or significantly degrade the groundwater or surface water. Such performance criteria shall include consideration of the quality of system effluent, the proposed total sewage flow per acre, wastewater treatment capabilities of the natural or replaced soil, water quality classification of the potential surface-water-receiving body, and the structural and maintenance viability of the system for the treatment of domestic wastewater. However, performance criteria shall address only the performance of a system and not a system's design.

2. The technical review and advisory panel shall assist the department in the development of performance criteria applicable to engineer-designed systems. ~~Workshops on the development of the rules delineating such criteria shall commence not later than September 1, 1996, and the department shall advertise such rules for public hearing no later than October 1, 1997.~~

3. A person electing to utilize an engineer-designed system shall, upon completion of the system design, submit such design, certified by a registered professional engineer, to the county health department. The county health department may utilize an outside consultant to review the engineer-designed system, with the actual cost of such review to be borne by the applicant. Within 5 working days after receiving an engineer-designed system permit application, the county health department shall request additional information if the application is not complete. Within 15 working days after receiving a complete application for an engineer-designed system, the county health department either shall issue the permit or, if it determines that the system does not comply with the performance criteria, shall notify the applicant of that determination and refer the application to the department for a determination as to whether the system should be approved, disapproved, or approved with modification. The department engineer's determination shall prevail over the action of the county health department. The applicant shall be notified in writing of the department's determination and of the applicant's rights to pursue a variance or seek review under the provisions of chapter 120.

4. The owner of an engineer-designed performance-based system must maintain a current maintenance service agreement with a maintenance entity permitted by the department. The maintenance entity shall obtain a biennial system operating permit from the department for each system under service contract. The department shall inspect the system at least

annually, or on such periodic basis as the fee collected permits, and may collect system-effluent samples if appropriate to determine compliance with the performance criteria. The fee for the biennial operating permit shall be collected beginning with the second year of system operation. The maintenance entity shall inspect each system at least twice each year and shall report quarterly to the department on the number of systems inspected and serviced.

5. If an engineer-designed system fails to properly function or fails to meet performance standards, the system shall be re-engineered, if necessary, to bring the system into compliance with the provisions of this section.

Reviser's note.—Paragraph (3)(j) is amended to conform to the correct name of the "technical review and advisory panel" as created in s. 381.0068. Paragraph (4)(j) is amended to delete an obsolete provision.

Section 49. Paragraph (a) of subsection (3) and paragraph (a) of subsection (4) of section 381.0072, Florida Statutes, are reenacted to read:

381.0072 Food service protection.—It shall be the duty of the Department of Health to adopt and enforce sanitation rules consistent with law to ensure the protection of the public from food-borne illness. These rules shall provide the standards and requirements for the storage, preparation, serving, or display of food in food service establishments as defined in this section and which are not permitted or licensed under chapter 500 or chapter 509.

(3) LICENSES REQUIRED.—

(a) Licenses; annual renewals.—Each food service establishment regulated under this section shall obtain a license from the department annually. Food service establishment licenses shall expire annually and shall not be transferable from one place or individual to another. However, those facilities licensed by the department's Office of Licensure and Certification, the Child Care Services Program Office, or the Developmental Disabilities Program Office are exempt from this subsection. It shall be a misdemeanor of the second degree, punishable as provided in s. 381.0061, s. 775.082, or s. 775.083, for such an establishment to operate without this license. The department may refuse a license, or a renewal thereof, to any establishment that is not constructed or maintained in accordance with law and with the rules of the department. Annual application for renewal shall not be required.

(4) LICENSE; INSPECTION; FEES.—

(a) The department is authorized to collect fees from establishments licensed under this section and from those facilities exempted from licensure under paragraph (3)(a). It is the intent of the Legislature that the total fees assessed under this section be in an amount sufficient to meet the cost of carrying out the provisions of this section.

Reviser's note.—Section 9, ch. 2004-350, Laws of Florida, purported to amend paragraphs (3)(a) and (4)(a), but failed to publish the amended paragraphs. In the absence of affirmative evidence that the Legislature intended

to repeal the paragraphs, paragraphs (3)(a) and (4)(a) are reenacted to confirm that the omission was not intended.

Section 50. Subsection (5) of section 381.103, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete an obsolete provision. The required report on the findings, accomplishments, and recommendations of the Community Health pilot projects was to be submitted no later than January 1, 2001.

Section 51. Subsection (6) of section 381.734, Florida Statutes, is amended to read:

381.734 Healthy Communities, Healthy People Program.—

(6) The Office of Program Policy Analysis and Government Accountability shall evaluate and report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, by March 1, 2005, on the effectiveness of the department's monitoring and assessment of the program's effectiveness.

Reviser's note.—Amended to conform to the complete title of the Office of Program Policy Analysis and Government Accountability.

Section 52. Subsection (1) of section 393.0655, Florida Statutes, is amended to read:

393.0655 Screening of direct service providers.—

(1) MINIMUM STANDARDS.—The agency shall require level 2 employment screening pursuant to chapter 435 for direct service providers who are unrelated to their clients, including support coordinators, and managers and supervisors of residential facilities or comprehensive transitional education programs licensed under s. 393.067 ~~393.967~~ and any other person, including volunteers, who provide care or services, who have access to a client's living areas, or who have access to a client's funds or personal property. Background screening shall include employment history checks as provided in s. 435.03(1) and local criminal records checks through local law enforcement agencies.

(a) A volunteer who assists on an intermittent basis for less than 40 hours per month does not have to be screened if the volunteer is under the direct and constant supervision of persons who meet the screening requirements of this section.

(b) Licensed physicians, nurses, or other professionals licensed and regulated by the Department of Health are not subject to background screening pursuant to this section if they are providing a service that is within their scope of licensed practice.

(c) A person selected by the family or the individual with developmental disabilities and paid by the family or the individual to provide supports or services is not required to have a background screening under this section.

(d) Persons residing with the direct services provider, including family members, are subject to background screening; however, such persons who are 12 to 18 years of age shall be screened for delinquency records only.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. Section 393.967 does not exist; s. 393.067 relates to licensure of comprehensive transitional education programs.

Section 53. Subsection (3) of section 393.068, Florida Statutes, is amended to read:

393.068 Family care program.—

(3) When it is determined by the agency to be more cost-effective and in the best interest of the client to maintain such client in the home of a direct service provider, the parent or guardian of the client or, if competent, the client may enroll the client in the family care program. The direct service provider of a client enrolled in the family care program shall be reimbursed according to a rate schedule set by the agency. In-home subsidies cited in paragraph (2)(d)~~(1)(d)~~ shall be provided according to s. 393.0695 and are not subject to any other payment method or rate schedule provided for in this section.

Reviser's note.—Amended to conform to the redesignation of subunits within s. 393.068 by s. 76, ch. 2004-267, Laws of Florida.

Section 54. Section 394.498, Florida Statutes, is repealed.

Reviser's note.—The cited section, which relates to the Child and Adolescent Interagency System of Care Demonstration Models, has served its purpose. Findings and conclusions for the models and recommendations for statewide implementation were to be included in a report to the Legislature by December 31, 2001.

Section 55. Subsection (3) of section 394.499, Florida Statutes, is repealed, and subsection (1) of that section is amended to read:

394.499 Integrated children's crisis stabilization unit/juvenile addictions receiving facility services.—

(1) Beginning July 1, 2001, the Department of Children and Family Services, in consultation with the Agency for Health Care Administration, is authorized to establish children's behavioral crisis unit demonstration models in Collier, Lee, and Sarasota Counties. ~~By December 31, 2003, the department shall submit to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the Senate and House committees that oversee departmental activities a report that evaluates the number of clients served, quality of services, performance outcomes, and feasibility of continuing or expanding the demonstration models.~~ Beginning July 1, 2004, subject to approval by the Legislature, the department, in cooperation with the agency, may expand the demonstration models to other areas in the state. The children's behavioral crisis unit demonstration models will integrate children's mental health crisis stabilization units with substance

abuse juvenile addictions receiving facility services, to provide emergency mental health and substance abuse services that are integrated within facilities licensed and designated by the agency for children under 18 years of age who meet criteria for admission or examination under this section. The services shall be designated as "integrated children's crisis stabilization unit/juvenile addictions receiving facility services," shall be licensed by the agency as children's crisis stabilization units, and shall meet all licensure requirements for crisis stabilization units. The department, in cooperation with the agency, shall develop standards that address eligibility criteria; clinical procedures; staffing requirements; operational, administrative, and financing requirements; and investigation of complaints for such integrated facility services. Standards that are implemented specific to substance abuse services shall meet or exceed existing standards for addictions receiving facilities.

Reviser's note.—Subsection (1) is amended to delete a provision that has served its purpose; it required a report relating to children's behavioral crisis unit demonstration models by December 31, 2003. Subsection (3) is repealed to delete a provision that has served its purpose; the Department of Children and Family Services was to report on an evaluation by December 31, 2003.

Section 56. Subsection (4) of section 394.82, Florida Statutes, is repealed, and subsection (6) of that section is amended to read:

394.82 Funding of expanded services.—

(5)~~(6)~~ The provisions of subsections (1) and (4)~~(5)~~ shall be implemented to the extent of available appropriations contained in the annual General Appropriations Act for such purposes.

Reviser's note.—Subsection (4) is repealed to delete provisions that have served their purpose; the Department of Children and Family Services was directed to submit reports on October 1, 2002, and October 1, 2003. Subsection (6) is amended to conform a cross-reference to the renumbering of subunits necessitated by the repeal of subsection (4) by this act.

Section 57. Subsection (2) of section 394.9083, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete a provision that has served its purpose; a report by the Behavioral Health Services Integration Workgroup was to be submitted by January 1, 2002.

Section 58. Paragraph (b) of subsection (5) and subsection (7) of section 395.4001, Florida Statutes, are amended to read:

395.4001 Definitions.—As used in this part, the term:

(5) "Level I trauma center" means a trauma center that:

(b) Serves as a resource facility to Level II trauma centers, pediatric trauma ~~referral~~ centers, and general hospitals through shared outreach, education, and quality improvement activities.

(7) "Pediatric trauma ~~referral~~ center" means a hospital that is verified by the department to be in substantial compliance with pediatric trauma center standards as established by rule of the department and has been approved by the department to operate as a pediatric trauma center.

Reviser's note.—Amended to conform to the revision of the term "pediatric trauma referral center" to "pediatric trauma center" throughout statutory material relating to the subject by ch. 2004-259, Laws of Florida.

Section 59. Subsection (2) of section 395.404, Florida Statutes, is amended to read:

395.404 Review of trauma registry data; report to central registry; confidentiality and limited release.—

(2) Each trauma center, pediatric trauma ~~referral~~ center, and acute care hospital shall report to the department's brain and spinal cord injury central registry, consistent with the procedures and timeframes of s. 381.74, any person who has a moderate-to-severe brain or spinal cord injury, and shall include in the report the name, age, residence, and type of disability of the individual and any additional information that the department finds necessary.

Reviser's note.—Amended to conform to the revision of the term "pediatric trauma referral center" to "pediatric trauma center" throughout statutory material relating to the subject by ch. 2004-259, Laws of Florida.

Section 60. Subsection (1) of section 397.416, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which allows persons with certain master's degrees and minimum experience to perform as qualified professionals with respect to substance abuse treatment services until January 1, 2001, has served its purpose.

Section 61. Subsection (4) of section 397.97, Florida Statutes, is repealed.

Reviser's note.—Repealed to conform to the repeal of s. 394.498 by this act.

Section 62. Section 400.1755, Florida Statutes, is amended to read:

400.1755 Care for persons with Alzheimer's disease or related disorders.—

(1) As a condition of licensure, facilities licensed under this part must provide to each of their employees, upon beginning employment, basic written information about interacting with persons with Alzheimer's disease or a related disorder.

(2) All employees who are expected to, or whose responsibilities require them to, have direct contact with residents with Alzheimer's disease or a related disorder must, in addition to being provided the information required in subsection (1), also have an initial training of at least 1 hour

completed in the first 3 months after beginning employment. This training must include, but is not limited to, an overview of dementias and must provide basic skills in communicating with persons with dementia.

(3) An individual who provides direct care shall be considered a direct caregiver and must complete the required initial training and an additional 3 hours of training within 9 months after beginning employment. This training shall include, but is not limited to, managing problem behaviors, promoting the resident's independence in activities of daily living, and skills in working with families and caregivers.

(a) The required 4 hours of training for certified nursing assistants are part of the total hours of training required annually.

(b) For a health care practitioner as defined in s. 456.001, continuing education hours taken as required by that practitioner's licensing board shall be counted toward this total of 4 hours.

(4) For an employee who is a licensed health care practitioner as defined in s. 456.001, training that is sanctioned by that practitioner's licensing board shall be considered to be approved by the Department of Elderly Affairs.

(5) The Department of Elderly Affairs or its designee must approve the initial and continuing training provided in the facilities. The department must approve training offered in a variety of formats, including, but not limited to, Internet-based training, videos, teleconferencing, and classroom instruction. The department shall keep a list of current providers who are approved to provide initial and continuing training. The department shall adopt rules to establish standards for the trainers and the training required in this section.

(6) Upon completing any training listed in this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility or to an assisted living facility, home health agency, adult day care center, or adult family-care home. The direct caregiver must comply with other applicable continuing education requirements.

~~An employee hired on or after July 1, 2001, need not comply with the guidelines created in this section before July 1, 2002.~~

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

Section 63. Sub-subparagraph b. of subparagraph 2. of paragraph (d) of subsection (5) of section 400.179, Florida Statutes, is repealed.

Reviser's note.—The cited sub-subparagraph, which directs the Agency for Health Care Administration to conduct a study and make recommendations regarding the minimum amount to be held in reserve to protect against certain Medicaid overpayments in a report to be submitted by January 1, 2003, has served its purpose.

Section 64. Paragraph (g) of subsection (3) of section 403.4154, Florida Statutes, is amended to read:

403.4154 Phosphogypsum management program.—

(3) ABATEMENT OF IMMINENT HAZARD.—

(g) The department may impose a lien on the real property on which the phosphogypsum stack system that poses an imminent hazard is located and on the real property underlying and other assets located at associated phosphate fertilizer production facilities equal in amount to the moneys expended from the Nonmandatory Land Reclamation Trust Fund pursuant to paragraph (e)~~(d)~~, including attorney's fees and court costs. The owner of any property on which such a lien is imposed is entitled to a release of the lien upon payment to the department of the lien amount. The lien imposed by this section does not take priority over any other prior perfected lien on the real property, personal property, or other assets referenced in this paragraph, including, but not limited to, the associated phosphate rock mine and reserves.

Reviser's note.—Amended to conform to the redesignation of subunits of subsection (3) by s. 8, ch. 2003-423, Laws of Florida.

Section 65. Paragraph (a) of subsection (17) of section 409.2563, Florida Statutes, is repealed, and paragraph (m) of subsection (4) of that section is amended to read:

409.2563 Administrative establishment of child support obligations.—

(4) NOTICE OF PROCEEDING TO ESTABLISH ADMINISTRATIVE SUPPORT ORDER.—To commence a proceeding under this section, the department shall provide to the custodial parent and serve the noncustodial parent with a notice of proceeding to establish administrative support order and a blank financial affidavit form. The notice must state:

(m) That, neither the department nor the Division of Administrative Hearings has jurisdiction to award or change child custody or rights of parental contact and these issues may only be addressed in circuit court.

1. The noncustodial parent may request in writing that the department proceed in circuit court to determine his or her support obligations.

2. The noncustodial parent may state in writing to the department his or her intention to address issues concerning custody or rights to parental contact in circuit court.

3. If the noncustodial parent submits the request authorized in subparagraph 1., or the statement authorized in subparagraph 2. to the department

within 20 days after the receipt of the initial notice, the department shall file a petition in circuit court for the determination of the noncustodial parent's child support obligations, and shall send to the noncustodial parent a copy of its petition, a notice of commencement of action, and a request for waiver of service of process as provided in the Florida Rules of Civil Procedure.

4. If, within 10 days after receipt of the department's petition and waiver of service, the noncustodial parent signs and returns the waiver of service form to the department, the department shall terminate the administrative proceeding without prejudice and proceed in circuit court.

5. In any circuit court action filed by the department pursuant to this paragraph or filed by a noncustodial parent or other person pursuant to paragraph (l) or paragraph (n), the department shall be a party only with respect to those issues of support allowed and reimbursable under Title IV-D of the Social Security Act. It is the responsibility of the noncustodial parent or other person to take the necessary steps to present other issues for the court to consider.

The department may serve the notice of proceeding to establish administrative support order by certified mail, restricted delivery, return receipt requested. Alternatively, the department may serve the notice by any means permitted for service of process in a civil action. For purposes of this section, an authorized employee of the department may serve the notice and execute an affidavit of service. Service by certified mail is completed when the certified mail is received or refused by the addressee or by an authorized agent as designated by the addressee in writing. If a person other than the addressee signs the return receipt, the department shall attempt to reach the addressee by telephone to confirm whether the notice was received, and the department shall document any telephonic communications. If someone other than the addressee signs the return receipt, the addressee does not respond to the notice, and the department is unable to confirm that the addressee has received the notice, service is not completed and the department shall attempt to have the addressee served personally. The department shall provide the custodial parent or caretaker relative with a copy of the notice by regular mail to the last known address of the custodial parent or caretaker.

Reviser's note.—Paragraph (4)(m) is amended to conform to the complete title of the Florida Rules of Civil Procedure. Paragraph (17)(a) is repealed to delete provisions that have served their purpose; the paragraph provided for establishment and evaluation of a study area, with reports due June 30, 2002; June 30, 2003; and June 30, 2004.

Section 66. Subsection (7) of section 409.907, Florida Statutes, is amended to read:

409.907 Medicaid provider agreements.—The agency may make payments for medical assistance and related services rendered to Medicaid recipients only to an individual or entity who has a provider agreement in effect with the agency, who is performing services or supplying goods in

accordance with federal, state, and local law, and who agrees that no person shall, on the grounds of handicap, race, color, or national origin, or for any other reason, be subjected to discrimination under any program or activity for which the provider receives payment from the agency.

(7) The agency may require, as a condition of participating in the Medicaid program and before entering into the provider agreement, that the provider submit information, in an initial and any required renewal applications, concerning the professional, business, and personal background of the provider and permit an onsite inspection of the provider's service location by agency staff or other personnel designated by the agency to perform this function. The agency shall perform a random onsite inspection, within 60 days after receipt of a fully complete new provider's application, of the provider's service location prior to making its first payment to the provider for Medicaid services to determine the applicant's ability to provide the services that the applicant is proposing to provide for Medicaid reimbursement. The agency is not required to perform an onsite inspection of a provider or program that is licensed by the agency, that provides services under waiver programs for home and community-based services, or that is licensed as a medical foster home by the Department of Children and Family Services. As a continuing condition of participation in the Medicaid program, a provider shall immediately notify the agency of any current or pending bankruptcy filing. Before entering into the provider agreement, or as a condition of continuing participation in the Medicaid program, the agency may also require that Medicaid providers reimbursed on a fee-for-services basis or fee schedule basis which is not cost-based, post a surety bond not to exceed $50,000 or the total amount billed by the provider to the program during the current or most recent calendar year, whichever is greater. For new providers, the amount of the surety bond shall be determined by the agency based on the provider's estimate of its first year's billing. If the provider's billing during the first year exceeds the bond amount, the agency may require the provider to acquire an additional bond equal to the actual billing level of the provider. A provider's bond shall not exceed $50,000 if a physician or group of physicians licensed under chapter 458, chapter 459, or chapter 460 has a 50 percent or greater ownership interest in the provider or if the provider is an assisted living facility licensed under part III of chapter 400. The bonds permitted by this section are in addition to the bonds referenced in s. 400.179(5)(d) ~~400.179(4)(d)~~. If the provider is a corporation, partnership, association, or other entity, the agency may require the provider to submit information concerning the background of that entity and of any principal of the entity, including any partner or shareholder having an ownership interest in the entity equal to 5 percent or greater, and any treating provider who participates in or intends to participate in Medicaid through the entity. The information must include:

(a) Proof of holding a valid license or operating certificate, as applicable, if required by the state or local jurisdiction in which the provider is located or if required by the Federal Government.

(b) Information concerning any prior violation, fine, suspension, termination, or other administrative action taken under the Medicaid laws, rules, or regulations of this state or of any other state or the Federal Government;

any prior violation of the laws, rules, or regulations relating to the Medicare program; any prior violation of the rules or regulations of any other public or private insurer; and any prior violation of the laws, rules, or regulations of any regulatory body of this or any other state.

(c) Full and accurate disclosure of any financial or ownership interest that the provider, or any principal, partner, or major shareholder thereof, may hold in any other Medicaid provider or health care related entity or any other entity that is licensed by the state to provide health or residential care and treatment to persons.

(d) If a group provider, identification of all members of the group and attestation that all members of the group are enrolled in or have applied to enroll in the Medicaid program.

Reviser's note.—Amended to conform to the context of the reference and the fact that there is no s. 400.179(4)(d).

Section 67. Subsections (1) and (6) of section 409.9071, Florida Statutes, are amended to read:

409.9071 Medicaid provider agreements for school districts certifying state match.—

(1) The agency shall ~~submit a state plan amendment by September 1, 1997, for the purpose of obtaining federal authorization to~~ reimburse school-based services as provided in former s. 236.0812 pursuant to the rehabilitative services option provided under 42 U.S.C. s. 1396d(a)(13). For purposes of this section, billing agent consulting services shall be considered billing agent services, as that term is used in s. 409.913(10), and, as such, payments to such persons shall not be based on amounts for which they bill nor based on the amount a provider receives from the Medicaid program. This provision shall not restrict privatization of Medicaid school-based services. Subject to any limitations provided for in the General Appropriations Act, the agency, in compliance with appropriate federal authorization, shall develop policies and procedures and shall allow for certification of state and local education funds which have been provided for school-based services as specified in s. 1011.70 and authorized by a physician's order where required by federal Medicaid law. Any state or local funds certified pursuant to this section shall be for children with specified disabilities who are eligible for both Medicaid and part B or part H of the Individuals with Disabilities Education Act (IDEA), or the exceptional student education program, or who have an individualized educational plan.

(6) Retroactive reimbursements for services as specified in former s. 236.0812 as of July 1, 1996, including reimbursement for the 1995-1996 and 1996-1997 school years, <u>are</u> subject to federal approval.

Reviser's note.—Subsection (1) is amended to delete a provision that has served its purpose. Subsection (6) is amended to make the sentence complete and provide clarity.

Section 68. Subparagraph 4. of paragraph (a) of subsection (1) of section 409.908, Florida Statutes, is repealed.

Reviser's note.—The cited subparagraph, which provides for hospital inpatient rates to be reduced by 6 percent effective July 1, 2001, and restored effective April 1, 2002, has served its purpose.

Section 69. Section 409.91188, Florida Statutes, is amended to read:

409.91188 Specialty prepaid health plans for Medicaid recipients with HIV or AIDS.—The Agency for Health Care Administration is authorized to contract with specialty prepaid health plans and pay them on a prepaid capitated basis to provide Medicaid benefits to Medicaid-eligible recipients who have human immunodeficiency syndrome (HIV) or acquired immunodeficiency syndrome (AIDS). The agency shall apply for and is authorized to implement federal waivers or other necessary federal authorization to implement the prepaid health plans authorized by this section. The agency shall procure the specialty prepaid health plans through a competitive procurement. In awarding a contract to a managed care plan, the agency shall take into account price, quality, accessibility, linkages to community-based organizations, and the comprehensiveness of the benefit package offered by the plan. The agency may bid the HIV/AIDS specialty plans on a county, regional, or statewide basis. Qualified plans must be licensed under chapter 641. The agency shall monitor and evaluate the implementation of this waiver program if it is approved by the Federal Government ~~and shall report on its status to the President of the Senate and the Speaker of the House of Representatives by February 1, 2001~~. To improve coordination of medical care delivery and to increase cost efficiency for the Medicaid program in treating HIV disease, the Agency for Health Care Administration shall seek all necessary federal waivers to allow participation in the Medipass HIV disease management program for Medicare beneficiaries who test positive for HIV infection and who also qualify for Medicaid benefits such as prescription medications not covered by Medicare.

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

Section 70. Paragraph (a) of subsection (4), paragraph (b) of subsection (16), subsection (41), and paragraph (d) of subsection (49) of section 409.912, Florida Statutes, are amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. To ensure that medical services are effectively utilized, the agency may, in any case, require a confirmation or second physician's opinion of the correct diagnosis for purposes of authorizing future services under the Medicaid program. This section does not restrict access to emergency services or poststabilization care services as defined in 42 C.F.R. part 438.114. Such confirmation or second opinion shall be rendered in a manner approved by the agency. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers

to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services. The agency may mandate prior authorization, drug therapy management, or disease management participation for certain populations of Medicaid beneficiaries, certain drug classes, or particular drugs to prevent fraud, abuse, overuse, and possible dangerous drug interactions. The Pharmaceutical and Therapeutics Committee shall make recommendations to the agency on drugs for which prior authorization is required. The agency shall inform the Pharmaceutical and Therapeutics Committee of its decisions regarding drugs subject to prior authorization. The agency is authorized to limit the entities it contracts with or enrolls as Medicaid providers by developing a provider network through provider credentialing. The agency may limit its network based on the assessment of beneficiary access to care, provider availability, provider quality standards, time and distance standards for access to care, the cultural competence of the provider network, demographic characteristics of Medicaid beneficiaries, practice and provider-to-beneficiary standards, appointment wait times, beneficiary use of services, provider turnover, provider profiling, provider licensure history, previous program integrity investigations and findings, peer review, provider Medicaid policy and billing compliance records, clinical and medical record audits, and other factors. Providers shall not be entitled to enrollment in the Medicaid provider network. The agency is authorized to seek federal waivers necessary to implement this policy.

(4) The agency may contract with:

(a) An entity that provides no prepaid health care services other than Medicaid services under contract with the agency and which is owned and operated by a county, county health department, or county-owned and operated hospital to provide health care services on a prepaid or fixed-sum basis to recipients, which entity may provide such prepaid services either directly or through arrangements with other providers. Such prepaid health care services entities must be licensed under parts I and III ~~by January 1, 1998, and until then are exempt from the provisions of part I~~ of chapter 641. An entity recognized under this paragraph which demonstrates to the satisfaction of the Office of Insurance Regulation of the Financial Services Commission that it is backed by the full faith and credit of the county in which it is located may be exempted from s. 641.225.

(16)

(b) The responsibility of the agency under this subsection shall include the development of capabilities to identify actual and optimal practice patterns; patient and provider educational initiatives; methods for determining patient compliance with prescribed treatments; fraud, waste, and abuse prevention and detection programs; and beneficiary case management programs.

1. The practice pattern identification program shall evaluate practitioner prescribing patterns based on national and regional practice guidelines, comparing practitioners to their peer groups. The agency and its Drug Utilization Review Board shall consult with the Department of Health and

a panel of practicing health care professionals consisting of the following: the Speaker of the House of Representatives and the President of the Senate shall each appoint three physicians licensed under chapter 458 or chapter 459; and the Governor shall appoint two pharmacists licensed under chapter 465 and one dentist licensed under chapter 466 who is an oral surgeon. Terms of the panel members shall expire at the discretion of the appointing official. ~~The panel shall begin its work by August 1, 1999, regardless of the number of appointments made by that date.~~ The advisory panel shall be responsible for evaluating treatment guidelines and recommending ways to incorporate their use in the practice pattern identification program. Practitioners who are prescribing inappropriately or inefficiently, as determined by the agency, may have their prescribing of certain drugs subject to prior authorization or may be terminated from all participation in the Medicaid program.

2. The agency shall also develop educational interventions designed to promote the proper use of medications by providers and beneficiaries.

3. The agency shall implement a pharmacy fraud, waste, and abuse initiative that may include a surety bond or letter of credit requirement for participating pharmacies, enhanced provider auditing practices, the use of additional fraud and abuse software, recipient management programs for beneficiaries inappropriately using their benefits, and other steps that will eliminate provider and recipient fraud, waste, and abuse. The initiative shall address enforcement efforts to reduce the number and use of counterfeit prescriptions.

4. By September 30, 2002, the agency shall contract with an entity in the state to implement a wireless handheld clinical pharmacology drug information database for practitioners. The initiative shall be designed to enhance the agency's efforts to reduce fraud, abuse, and errors in the prescription drug benefit program and to otherwise further the intent of this paragraph.

5. The agency may apply for any federal waivers needed to implement this paragraph.

(41) The agency shall provide for the development of a demonstration project by establishment in Miami-Dade County of a long-term-care facility licensed pursuant to chapter 395 to improve access to health care for a predominantly minority, medically underserved, and medically complex population and to evaluate alternatives to nursing home care and general acute care for such population. Such project is to be located in a health care condominium and colocated with licensed facilities providing a continuum of care. The establishment of this project is not subject to the provisions of s. 408.036 or s. 408.039. ~~The agency shall report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2003.~~

(49) The agency shall contract with established minority physician networks that provide services to historically underserved minority patients. The networks must provide cost-effective Medicaid services, comply with the requirements to be a MediPass provider, and provide their primary care physicians with access to data and other management tools necessary to

assist them in ensuring the appropriate use of services, including inpatient hospital services and pharmaceuticals.

(d) The agency may apply for any federal waivers needed to implement this subsection ~~paragraph~~.

Reviser's note.—Paragraphs (4)(a) and (16)(b) and subsection (41) are amended to delete provisions that have served their purpose. Paragraph (49)(d) is amended to conform to the context of the reference.

Section 71. Subsection (3) of section 420.504, Florida Statutes, is amended to read:

420.504 Public corporation; creation, membership, terms, expenses.—

(3) The corporation is a separate budget entity and is not subject to control, supervision, or direction by the Department of Community Affairs in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters. The corporation shall consist of a board of directors composed of the Secretary of Community Affairs as an ex officio and voting member and eight members appointed by the Governor subject to confirmation by the Senate from the following:

(a) One citizen actively engaged in the residential home building industry.

(b) One citizen actively engaged in the banking or mortgage banking industry.

(c) One citizen who is a representative of those areas of labor engaged in home building.

(d) One citizen with experience in housing development who is an advocate for low-income persons.

(e) One citizen actively engaged in the commercial building industry.

(f) One citizen who is a former local government elected official.

(g) Two citizens of the state who are not principally employed as members or representatives of any of the groups specified in paragraphs (a)-(f).

~~The changes in membership categories required by this act shall be effective when the term of one citizen member expires in 1998.~~

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

Section 72. Paragraph (g) of subsection (2) of section 430.04, Florida Statutes, is reenacted to read:

430.04 Duties and responsibilities of the Department of Elderly Affairs.—The Department of Elderly Affairs shall:

(2) Be responsible for ensuring that each area agency on aging operates in a manner to ensure that the elderly of this state receive the best services possible. The department shall rescind designation of an area agency on aging or take intermediate measures against the agency, including corrective action, unannounced special monitoring, temporary assumption of operation of one or more programs by the department, placement on probationary status, imposing a moratorium on agency action, imposing financial penalties for nonperformance, or other administrative action pursuant to chapter 120, if the department finds that:

(g) The agency has failed to implement and maintain a department-approved client grievance resolution procedure.

Reviser's note.—Section 4, ch. 2004-386, Laws of Florida, amended subsection (2), including insertion of a new paragraph (f), without publishing existing paragraph (f). Absent affirmative evidence of legislative intent to repeal existing paragraph (f), it is reenacted here, redesignated as paragraph (g), to confirm that the omission was not intended.

Section 73. Paragraph (b) of subsection (6) of section 430.205, Florida Statutes, is amended to read:

430.205 Community care service system.—

(6) Notwithstanding other requirements of this chapter, the Department of Elderly Affairs and the Agency for Health Care Administration shall develop an integrated long-term-care delivery system.

(b) During the 2004-2005 state fiscal year:

1. The agency, in consultation with the department, shall develop an implementation plan to integrate the Frail Elder Option into the Nursing Home Diversion pilot project and each program's funds into one capitated program serving the aged. Beginning July 1, 2004, the agency may not enroll additional individuals in the Frail Elder Option.

2. The agency, in consultation with the department, shall integrate the Aged and Disabled Adult Medicaid waiver program and the Assisted Living for the Elderly Medicaid waiver program and each program's funds into one fee-for-service Medicaid waiver program serving the aged and disabled. Once the programs are integrated, funding to provide care in assisted-living facilities under the new waiver may not be less than the amount appropriated in the 2003-2004 fiscal year for the Assisted Living for the Elderly Medicaid waiver.

a. The agency shall seek federal waivers necessary to integrate these waiver programs.

b. The agency and the department shall reimburse providers for case management services on a capitated basis and develop uniform standards for case management in this fee-for-service Medicaid waiver program. The coordination of acute and chronic medical services for individuals shall be included in the capitated rate for case management services.

c. The agency and the department shall adopt any rules necessary to comply with or administer these requirements, effect and implement interagency agreements between the department and the agency, and comply with federal requirements.

3. The Legislature finds that preservation of the historic aging network of lead agencies is essential to the well-being of Florida's elderly population. The Legislature finds that the Florida aging network constitutes a system of essential community providers which should be nurtured and assisted to develop systems of operations which allow the gradual assumption of responsibility and financial risk for managing a client through the entire continuum of long-term care services within the area the lead agency is currently serving, and which allow lead agency providers to develop managed systems of service delivery. The department, in consultation with the agency, shall therefore:

a. Develop a demonstration project in which existing community care for the elderly lead agencies are assisted in transferring their business model and the service delivery system within their current community care service area to enable assumption, over a period of time, of full risk as a community diversion pilot project contractor providing long-term care services in the areas of operation. The department, in consultation with the agency and the Department of Children and Family Services, shall develop an implementation plan for no more than three lead agencies by October 31, 2004.

b. In the demonstration area, a community care for the elderly lead agency shall be initially reimbursed on a prepaid or fixed-sum basis for services provided under the newly integrated fee-for-service Medicaid waiver. By the end of the third year of operation, the demonstration <u>project</u> shall include all services under the long-term care community diversion pilot project.

c. During the first year of operation, the department, in consultation with the agency, may place providers at risk to provide nursing home services for the enrolled individuals who are participating in the demonstration project. During the 3-year development period, the agency and the department may limit the level of custodial nursing home risk that the administering entities assume. Under risk-sharing arrangements, during the first 3 years of operation, the department, in consultation with the agency, may reimburse the administering entity for the cost of providing nursing home care for Medicaid-eligible participants who have been permanently placed and remain in a nursing home for more than 1 year, or may disenroll such participants from the demonstration project.

d. The agency, in consultation with the department, shall develop reimbursement rates based on the historical cost experience of the state in providing long-term care and nursing home services under Medicaid waiver programs to the population 65 years of age and older in the area served by the pilot project.

e. The department, in consultation with the agency, shall ensure that the entity or entities receiving prepaid or fixed-sum reimbursement are assisted in developing internal management and financial control systems necessary

to manage the risk associated with providing services under a prepaid or fixed-sum rate system.

f. If the department and the agency share risk of custodial nursing home placement, payment rates during the first 3 years of operation shall be set at not more than 100 percent of the costs to the agency and the department of providing equivalent services to the population within the area of the pilot project for the year prior to the year in which the pilot project is implemented, adjusted forward to account for inflation and policy changes in the Medicaid program. In subsequent years, the rate shall be negotiated, based on the cost experience of the entity in providing contracted services, but may not exceed 95 percent of the amount that would have been paid in the pilot project area absent the prepaid or fixed sum reimbursement methodology.

g. Community care for the elderly lead agencies that have operated for a period of at least 20 years, which provide Medicare-certified services to elders, and which have developed a system of service provision by health care volunteers shall be given priority in the selection of the pilot project if they meet the minimum requirements specified in the competitive procurement.

h. The agency and the department shall adopt rules necessary to comply with or administer these requirements, effect and implement interagency agreements between the agency and the department, and comply with federal requirements.

i. The department and the agency shall seek federal waivers necessary to implement the requirements of this section.

j. The Department of Elderly Affairs shall conduct or contract for an evaluation of the demonstration project. The department shall submit the evaluation to the Governor and the Legislature by January 1, 2007. The evaluation must address the effectiveness of the pilot project in providing a comprehensive system of appropriate and high-quality, long-term care services to elders in the least restrictive setting and make recommendations on expanding the project to other parts of the state.

4. The department, in consultation with the agency, shall study the integration of the database systems for the Comprehensive Assessment and Review of Long-Term Care (CARES) program and the Client Information and Referral Tracking System (CIRTS) and develop a plan for database integration. The department shall submit the plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2004.

5. The agency, in consultation with the department, shall work with the fiscal agent for the Medicaid program to develop a service utilization reporting system that operates through the fiscal agent for the capitated plans.

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

Section 74. Subsection (6) of section 440.05, Florida Statutes, is amended to read:

440.05 Election of exemption; revocation of election; notice; certification.—

(6) A construction industry certificate of election to be exempt which is issued in accordance with this section shall be valid for 2 years after the effective date stated thereon. Both the effective date and the expiration date must be listed on the face of the certificate by the department. The construction industry certificate must expire at midnight, 2 years from its issue date, as noted on the face of the exemption certificate. ~~Any person who has received from the department a construction industry certificate of election to be exempt which is in effect on December 31, 1998, shall file a new notice of election to be exempt by the last day in his or her birth month following December 1, 1998.~~ A construction industry certificate of election to be exempt may be revoked before its expiration by the officer for whom it was issued or by the department for the reasons stated in this section. At least 60 days prior to the expiration date of a construction industry certificate of exemption issued after December 1, 1998, the department shall send notice of the expiration date and an application for renewal to the certificateholder at the address on the certificate.

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

Section 75. Paragraph (a) of subsection (6) of section 440.491, Florida Statutes, is amended to read:

440.491 Reemployment of injured workers; rehabilitation.—

(6) TRAINING AND EDUCATION.—

(a) Upon referral of an injured employee by the carrier, or upon the request of an injured employee, the department shall conduct a training and education screening to determine whether it should refer the employee for a vocational evaluation and, if appropriate, approve training and education or other vocational services for the employee. The department may not approve formal training and education programs unless it determines, after consideration of the reemployment assessment, pertinent reemployment status reviews or reports, and such other relevant factors as it prescribes by rule, that the reemployment plan is likely to result in return to suitable gainful employment. The department is authorized to expend moneys from the Workers' Compensation Administration Trust Fund, established by s. 440.50, to secure appropriate training and education at a community college as designated in s. 1000.21(3) or at a <u>career center</u> ~~vocational-technical school~~ established under s. 1001.44, or to secure other vocational services when necessary to satisfy the recommendation of a vocational evaluator. As used in this paragraph, "appropriate training and education" includes securing a general education diploma (GED), if necessary. The department shall establish training and education standards pertaining to employee eligibility, course curricula and duration, and associated costs.

Reviser's note.—Amended to conform to the substitution of the term "career center" for "vocational-technical school" throughout statutory mate-

rial relating to the subject by ch. 2004-357, Laws of Florida. Also amended to conform to the terminology used in s. 1001.44.

Section 76. Section 440.591, Florida Statutes, is amended to read:

440.591 Administrative procedure; rulemaking authority.—The department, the Financial Services Commission, the agency, and the Department of Education may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter conferring duties upon them ~~it~~.

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

Section 77. Paragraph (a) of subsection (5) of section 443.191, Florida Statutes, is amended to read:

443.191 Unemployment Compensation Trust Fund; establishment and control.—

(5) MONEY CREDITED UNDER 42 U.S.C. S. 1103.—

(a) Money credited to this state's account in the federal Unemployment Compensation Trust Fund by the Secretary of the Treasury of the United States under 42 U.S.C. s. 1103 may not be requisitioned from this state's account or used except for the payment of benefits and for the payment of expenses incurred for the administration of this chapter. These moneys may be requisitioned under subsection (3) for the payment of benefits. These moneys may also be requisitioned and used for the payment of expenses incurred for the administration of this chapter, but only under a specific appropriation by the Legislature and only if the expenses are incurred and the money is requisitioned after the enactment of an appropriations law that:

1. Specifies the purposes for which the money is appropriated and the amounts appropriated;

2. Limits the period within which the money may be obligated to a period ending not more than 2 years after the date of the enactment of the appropriations law; and

3. Limits the amount that may be obligated during any 12-month period beginning on July 1 and ending on the next June 30 to an amount that does not exceed the amount by which the aggregate of the amounts credited to the state's account under 42 U.S.C. s. 1103 during the same 12-month period and the 34 preceding 12-month periods exceeds the aggregate of the amounts obligated for administration and paid out for benefits and charged against the amounts credited to the state's account during those 35 12-month periods.

~~Notwithstanding this paragraph, money credited for federal fiscal years 1999, 2000, and 2001 may only be used solely for the administration of the Unemployment Compensation Program. This money is not otherwise subject to this paragraph when appropriated by the Legislature.~~

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

Section 78. Subsection (5) and paragraph (b) of subsection (6) of section 445.003, Florida Statutes, are repealed.

Reviser's note.—Subsection (5), which required the former Department of Labor and Employment Security to phase-down Job Training Partnership Act duties before the July 1, 2000, abolishment of the federal program, and to complete related outstanding accounts and issues by July 1, 2002 (transfer to Agency for Workforce Innovation), is obsolete. Paragraph (6)(b), which required the Office of Program Policy Analysis and Government Accountability to review the workforce development system and submit a final report by December 31, 2002, has served its purpose.

Section 79. Subsection (3) and paragraph (b) of subsection (9) of section 445.009, Florida Statutes, are amended to read:

445.009 One-stop delivery system.—

(3) ~~Notwithstanding any other provision of law, any memorandum of understanding in effect on June 30, 2000, between a regional workforce board and the Department of Labor and Employment Security governing the delivery of workforce services shall remain in effect until September 30, 2000.~~ Beginning October 1, 2000, regional workforce boards shall enter into a memorandum of understanding with the Agency for Workforce Innovation for the delivery of employment services authorized by the federal Wagner-Peyser Act. This memorandum of understanding must be performance based.

(a) Unless otherwise required by federal law, at least 90 percent of the Wagner-Peyser funding must go into direct customer service costs.

(b) Employment services must be provided through the one-stop delivery system, under the guidance of one-stop delivery system operators. One-stop delivery system operators shall have overall authority for directing the staff of the workforce system. Personnel matters shall remain under the ultimate authority of the Agency for Workforce Innovation. However, the one-stop delivery system operator shall submit to the agency information concerning the job performance of agency employees who deliver employment services. The agency shall consider any such information submitted by the one-stop delivery system operator in conducting performance appraisals of the employees.

(c) The agency shall retain fiscal responsibility and accountability for the administration of funds allocated to the state under the Wagner-Peyser Act. An agency employee who is providing services authorized under the Wagner-Peyser Act shall be paid using Wagner-Peyser Act funds.

~~(d) The Office of Program Policy Analysis and Government Accountability, in consultation with Workforce Florida, Inc., shall review the delivery of employment services under the Wagner-Peyser Act and the integration of those services with other activities performed through the one-stop deliv-~~

~~ery system and shall provide recommendations to the Legislature for improving the effectiveness of the delivery of employment services in this state. The Office of Program Policy Analysis and Government Accountability shall submit a report and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2002.~~

(9)

(b) The network shall assure that a uniform method is used to determine eligibility for and management of services provided by agencies that conduct workforce development activities. The Department of Management Services shall develop strategies to allow access to the databases and information management systems of the following systems in order to link information in those databases with the one-stop delivery system:

1. The Unemployment Compensation Program of the Agency for Workforce Innovation.

2. The public employment service described in s. 443.181.

3. The FLORIDA System and the components related to WAGES, food stamps, and Medicaid eligibility.

~~4. The Workers' Compensation System of the Department of Labor and Employment Security.~~

4.~~5.~~ The Student Financial Assistance System of the Department of Education.

5.~~6.~~ Enrollment in the public postsecondary education system.

6.~~7.~~ Other information systems determined appropriate by Workforce Florida, Inc.

The systems shall be fully coordinated at both the state and local levels by July 1, 2001.

Reviser's note.—Amended to delete provisions that are obsolete or have served their purpose. Subparagraph (9)(b)4. is deleted to remove a reference to an information management system of the Department of Labor and Employment Security; the system was not implemented, and the department was abolished by s. 69, ch. 2002-194, Laws of Florida.

Section 80. Section 446.051, Florida Statutes, is reenacted to read:

446.051 Related instruction for apprentices.—

(1) The administration and supervision of related and supplemental instruction for apprentices, coordination of such instruction with job experiences, and selection and training of teachers and coordinators for such instruction, all as approved by the registered program sponsor, shall be the responsibility of the appropriate career education institution.

(2) The appropriate career education institution shall be encouraged to cooperate with and assist in providing to any registered program sponsor facilities, equipment and supplies, and instructors' salaries for the performance of related and supplemental instruction associated with the registered program.

Reviser's note.—Reenacted to confirm the substitution of the term "career education" for "vocational education" to conform to that substitution throughout statutory material relating to the subject by ch. 2004-357, Laws of Florida.

Section 81. Paragraph (a) of subsection (1) and subsection (2) of section 450.081, Florida Statutes, are reenacted to read:

450.081 Hours of work in certain occupations.—

(1)(a) Minors 15 years of age or younger shall not be employed, permitted, or suffered to work before 7 a.m. or after 7 p.m. when school is scheduled the following day or for more than 15 hours in any one week. On any school day, minors 15 years of age or younger who are not enrolled in a career education program shall not be gainfully employed for more than 3 hours, unless there is no session of school the following day.

(2) Minors 16 and 17 years of age shall not be employed, permitted, or suffered to work before 6:30 a.m. or after 11:00 p.m. or for more than 8 hours in any one day when school is scheduled the following day. When school is in session, minors 16 and 17 years of age shall not work more than 30 hours in any one week. On any school day, minors 16 and 17 years of age who are not enrolled in a career education program shall not be gainfully employed during school hours.

Reviser's note.—Reenacted to confirm the substitution of the term "career education" for "vocational education" to conform to that substitution throughout statutory material relating to the subject by ch. 2004-357, Laws of Florida.

Section 82. Subsection (2) of section 455.2177, Florida Statutes, is amended to read:

455.2177 Monitoring of compliance with continuing education requirements.—

(2) <u>The department</u> may refuse renewal of a licensee's license until the licensee has satisfied all applicable continuing education requirements. This subsection does not preclude the department or boards from imposing additional penalties pursuant to the applicable practice act or rules adopted pursuant thereto.

Reviser's note.—Amended to improve clarity and correct sentence construction.

Section 83. Paragraph (c) of subsection (14) of section 455.32, Florida Statutes, is amended to read:

455.32 Management Privatization Act.—

(14) The contract between the department and the corporation must be in compliance with this section and other applicable laws. The department shall retain responsibility for any duties it currently exercises relating to its police powers and any other current duty that is not provided to the corporation by contract or this section. The contract shall provide, at a minimum, that:

(c) The corporation submit an annual budget for approval by the department. If the department's appropriations request differs from the budget submitted by the corporation, the relevant professional board shall be permitted to authorize the inclusion in the appropriations request of a comment or statement of disagreement with the department's request.

Reviser's note.—Amended to improve clarity and correct sentence construction.

Section 84. Subsection (2) of section 475.615, Florida Statutes, is amended to read:

475.615 Qualifications for registration, licensure, or certification.—

(2) The board is authorized to waive or modify any education, experience, or examination requirements established in this part ~~section~~ in order to conform with any such requirements established by the Appraisal Qualifications Board of the Appraisal Foundation and recognized by the Appraisal Subcommittee or any successor body recognized by federal law.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 9, ch. 91-89, Laws of Florida, created part II, ch. 475, Florida Statutes, regulating appraisers, including the reference to "this section." Education, experience, and examination requirements were created by s. 9, ch. 91-89, and are located in ss. 475.616 and 475.617.

Section 85. Section 489.146, Florida Statutes, is amended to read:

489.146 Privatization of services.—Notwithstanding any other provision of this part relating to the review of licensure applications, issuance of licenses and renewals, collection of revenues, fees, and fines, service of documents, publications, and printing, and other ministerial functions of the department relating to the regulation of contractors, the department shall make all reasonable efforts to contract with one or more private entities for provision of such services, when such services can be provided in a more efficient manner by private entities. The department or the board shall retain final authority for licensure decisions and rulemaking, including all appeals or other legal action resulting from such licensure decisions or rulemaking. The department and the board shall adopt rules to implement the provisions of this section. ~~The department shall report all progress and the status of privatization and privatization efforts to the Legislature by March 1, 1998.~~

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

Section 86. Subsection (4) of section 489.531, Florida Statutes, is reenacted to read:

489.531 Prohibitions; penalties.—

(4) Each county or municipality may, at its option, designate one or more of its code enforcement officers, as defined in chapter 162, to enforce, as set out in this subsection, the provisions of subsection (1) against persons who engage in activity for which county or municipal certification is required.

(a) A code enforcement officer designated pursuant to this subsection may issue a citation for any violation of subsection (1) whenever, based upon personal investigation, the code enforcement officer has reasonable and probable grounds to believe that such a violation has occurred.

(b) A citation issued by a code enforcement officer shall be in a form prescribed by the local governing body of the county or municipality and shall state:

1. The time and date of issuance.

2. The name and address of the person to whom the citation is issued.

3. The time and date of the violation.

4. A brief description of the violation and the facts constituting reasonable cause.

5. The name of the code enforcement officer.

6. The procedure for the person to follow in order to pay the civil penalty or to contest the citation.

7. The applicable civil penalty if the person elects not to contest the citation.

(c) The local governing body of the county or municipality is authorized to enforce codes and ordinances against unlicensed contractors under the provisions of this section and may enact an ordinance establishing procedures for implementing this section, including a schedule of penalties to be assessed by the code enforcement officers. The maximum civil penalty which may be levied shall not exceed $500. Moneys collected pursuant to this section shall be retained locally as provided for by local ordinance and may be set aside in a specific fund to support future enforcement activities against unlicensed contractors.

(d) The act for which the citation is issued shall be ceased upon receipt of the citation; and the person charged with the violation shall elect either to correct the violation and pay the civil penalty in the manner indicated on the citation or, within 10 days of receipt of the citation, exclusive of weekends and legal holidays, request an administrative hearing before the enforcement or licensing board or designated special magistrate to appeal the issuance of the citation by the code enforcement officer.

1. Hearings shall be held before an enforcement or licensing board or designated special magistrate as established by s. 162.03(2), and such hearings shall be conducted pursuant to ss. 162.07 and 162.08.

2. Failure of a violator to appeal the decision of the code enforcement officer within the time period set forth in this paragraph shall constitute a waiver of the violator's right to an administrative hearing. A waiver of the right to administrative hearing shall be deemed an admission of the violation and, penalties may be imposed accordingly.

3. If the person issued the citation, or his or her designated representative, shows that the citation is invalid or that the violation has been corrected prior to appearing before the enforcement or licensing board or designated special magistrate, the enforcement or licensing board or designated special magistrate shall dismiss the citation unless the violation is irreparable or irreversible.

4. Each day a willful, knowing violation continues shall constitute a separate offense under the provisions of this subsection.

(e) A person cited for a violation pursuant to this subsection is deemed to be charged with a noncriminal infraction.

(f) If the enforcement or licensing board or designated special magistrate finds that a violation exists, the enforcement or licensing board or designated special magistrate may order the violator to pay a civil penalty of not less than the amount set forth on the citation but not more than $500 per day for each violation. In determining the amount of the penalty, the enforcement or licensing board or designated special magistrate shall consider the following factors:

1. The gravity of the violation.

2. Any actions taken by the violator to correct the violation.

3. Any previous violations committed by the violator.

(g) Upon written notification by the code enforcement officer that a violator had not contested the citation or paid the civil penalty within the timeframe allowed on the citation, or if a violation has not been corrected within the timeframe set forth on the notice of violation, the enforcement or licensing board or the designated special magistrate shall enter an order ordering the violator to pay the civil penalty set forth on the citation or notice of violation, and a hearing shall not be necessary for the issuance of such order.

(h) A certified copy of an order imposing a civil penalty against an uncertified contractor may be recorded in the public records and thereafter shall constitute a lien against any real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including a levy against personal property; however, such order shall not be deemed to be a court judgment except for enforcement purposes. A civil penalty imposed pursuant to this part shall continue to accrue until the violator comes into

compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. After 3 months from the filing of any such lien which remains unpaid, the enforcement or licensing board or designated special magistrate may authorize the local governing body's attorney to foreclose on the lien. No lien created pursuant to the provisions of this part may be foreclosed on real property which is a homestead under s. 4, Art. X of the State Constitution.

(i) This subsection does not authorize or permit a code enforcement officer to perform any function or duty of a law enforcement officer other than a function or duty that is authorized in this subsection.

(j) An aggrieved party, including the local governing body, may appeal a final administrative order of an enforcement or licensing board or designated special magistrate to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the enforcement or licensing board or designated special magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed.

(k) All notices required by this subsection shall be provided to the alleged violator by certified mail, return receipt requested; by hand delivery by the sheriff or other law enforcement officer or code enforcement officer; by leaving the notice at the violator's usual place of residence with some person of his or her family above 15 years of age and informing such person of the contents of the notice; or by including a hearing date within the citation.

(l) For those counties which enact ordinances to implement this subsection and which have local construction licensing boards or local government code enforcement boards, the local construction licensing board or local government code enforcement board shall be responsible for the administration of such citation program and training of code enforcement officers. The local governing body of the county shall enter into interlocal agreements with any municipalities in the county so that such municipalities may by ordinance, resolution, policy, or administrative order, authorize individuals to enforce the provisions of this section. Such individuals shall be subject to the requirements of training as specified by the local construction licensing board.

(m) Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(n) Nothing contained in this section shall prohibit a county or municipality from enforcing its codes or ordinances by any other means.

(o) Nothing in this subsection shall be construed to authorize local jurisdictions to exercise disciplinary authority or procedures established in this subsection against an individual holding a proper valid certificate issued pursuant to this part.

Reviser's note.—Section 87, ch. 2004-11, Laws of Florida, amended portions of subsection (4) without publishing the introductory paragraph of the

subsection. Absent affirmative evidence of legislative intent to repeal it, the introductory paragraph of subsection (4) is reenacted to confirm that the omission was not intended.

Section 87. Effective October 1, 2005, paragraph (c) of subsection (4) of section 497.103, Florida Statutes, as amended by section 8 of chapter 2004-301, Laws of Florida, is amended to read:

497.103 Rulemaking authority of board and department.—

(4) RECOMMENDATIONS BY THE CHIEF FINANCIAL OFFICER.—

(c) If the Chief Financial Officer makes any recommendation pursuant to this subsection concerning approval or denial of an application for license or otherwise under this chapter, the running of the period under s. 120.60 for approving or denying a completed application shall be tolled from the date ~~of~~ the Chief Financial Officer's recommendation is made for the shorter of 90 days or until the effect of such recommendation is determined in accordance with paragraph (a).

Reviser's note.—Amended to improve clarity and correct sentence construction.

Section 88. Effective October 1, 2005, paragraph (b) of subsection (6) and subsection (7) of section 497.140, Florida Statutes, as amended and renumbered from section 497.525, Florida Statutes, by section 10 of chapter 2004-301, Laws of Florida, are amended to read:

497.140 Fees.—

(6)

(b) The board may with the concurrence of the department, if that portion of the Regulatory Trust Fund held by the department for implementation of this chapter is not in deficit and has a reasonable cash balance, earmark $5 of each initial licensure and each license renewal fee collected under this chapter and direct the deposit of each such amount into the separate account required in paragraph (a), to be utilized by the department for the purposes of combating unlicensed practice in violation of this chapter. Such earmarked amount may be, as the board directs, in lieu of or in addition to the special unlicensed activity fee imposed under paragraph (a). The earmarking may be imposed and thereafter eliminated from time to time according <u>to</u> the adequacy of trust funds held for implementation of this chapter.

(7) Any fee required to be paid under this chapter, which was set at a fixed amount as <u>in</u> the 2004 edition of the Florida Statutes, but as to which this chapter now provides to be a fee as determined by board rule subject to a cap specified in this chapter, shall remain at the amount as set in the 2004 edition of the Florida Statutes unless and until the board shall change such fee by rule.

Reviser's note.—Amended to improve clarity and correct sentence construction.

Section 89. Effective October 1, 2005, subsection (6) of section 497.150, Florida Statutes, as created by section 20 of chapter 2004-301, Laws of Florida, is amended to read:

497.150 Compliance examinations of existing licensees.—

(6) If the department finds any accounts or records required to be made or maintained by a licensee under this chapter to be inadequate or inadequately kept or posted, it may ~~be~~ employ experts to reconstruct, rewrite, post, or balance them at the expense of the person being examined, provided the person has failed to maintain, complete, or correct such records or accounting after the department has given her or him notice and a reasonable opportunity to do so.

Reviser's note.—Amended to improve clarity and correct sentence construction.

Section 90. Effective October 1, 2005, paragraph (b) of subsection (7) of section 497.152, Florida Statutes, as created by section 22 of chapter 2004-301, Laws of Florida, is amended to read:

497.152 Disciplinary grounds.—This section sets forth conduct which is prohibited and which shall constitute grounds for denial of any application, imposition of discipline, and other enforcement action against the licensee or other person committing such conduct. For purposes of this section, the requirements of this chapter include the requirements of rules adopted under authority of this chapter. No subsection heading in this section shall be interpreted as limiting the applicability of any paragraph within the subsection.

(7) RELATIONS WITH OTHER LICENSEES.—

(b) Making any misleading statements or misrepresentations as to the financial condition of any person, or which are falsely and maliciously critical of any person for the purpose <u>of</u> damaging that person's business regulated under this chapter.

Reviser's note.—Amended to improve clarity and correct sentence construction.

Section 91. Effective October 1, 2005, paragraph (b) of subsection (5) of section 497.153, Florida Statutes, as created by section 23 of chapter 2004-301, Laws of Florida, is amended to read:

497.153 Disciplinary procedures and penalties.—

(5) PENALTIES.—

(b) In addition to any fine and other sanction imposed, the board may order the payment by the licensee of the reasonable costs of the department and the board associated with investigation and prosecution <u>of</u> the matter, and may order the licensee to make restitution as directed by board order to persons harmed by the violation.

Reviser's note.—Amended to improve clarity and correct sentence construction.

Section 92. Effective October 1, 2005, subsection (2) of section 497.160, Florida Statutes, as amended and renumbered from section 497.437, Florida Statutes, by section 30 of chapter 2004-301, Laws of Florida, is amended to read:

497.160 Receivership proceedings.—

(2) A receivership under this section may be temporary, or for the winding up and dissolution of the business, as the department may request and the court determines to be necessary or advisable in the circumstances. Venue of receivership proceedings may <u>be</u>, at the department's election, in Leon County, or the county where the subject of the receivership is located. The appointed receiver shall be the department or such person as the department may nominate and the court shall approve. The provisions of part I of chapter 631 shall be applicable to receiverships under this section except to the extent the court shall determine the application of particular of such provisions to be impracticable or would produce unfair results in the circumstances. Expenditures by the department from its budgeted funds, the Preneed Funeral Contract Consumer Protection Trust Fund, and other regulatory trust funds derived from this chapter, for implementation and effectuation of such a receivership, shall be authorized; any such funds expended shall be a claim against the estate in the receivership proceedings.

Reviser's note.—Amended to improve clarity and correct sentence construction.

Section 93. Effective October 1, 2005, subsection (2) of section 497.166, Florida Statutes, as created by section 36 of chapter 2004-301, Laws of Florida, is amended to read:

497.166 Preneed sales.—

(2) Nothing in parts I, II, III, V, or VI of this chapter shall <u>be</u> understood to necessarily prohibit any licensee under this chapter from selling preneed funerals and funeral merchandise through its agents and employees, so long as such sales are permitted by part IV of this chapter.

Reviser's note.—Amended to improve clarity and correct sentence construction.

Section 94. Effective October 1, 2005, subsections (10) and (14) of section 497.167, Florida Statutes, as created by section 37 of chapter 2004-301, Laws of Florida, are amended to read:

497.167 Administrative matters.—

(10) The board may establish by rule procedures and requirements for the appearance before the board of any applicant or principal of an applicant, to stand for oral interview by the board at a public meeting <u>of the</u> board, before an application shall be deemed complete. Such rule may re-

quire such appearance for all or specified categories of applicants and may provide criteria for determining when such appearance shall be required.

(14) The department shall have standing to appear as a party litigant in any judicial proceeding for the purpose of enforcing this chapter or for the protection of Florida residents from the effects of any violation of this chapter.

Reviser's note.—Amended to improve clarity and correct sentence construction.

Section 95. Effective October 1, 2005, subsection (2) of section 497.260, Florida Statutes, as amended and renumbered from section 497.003, Florida Statutes, by section 42 of chapter 2004-301, Laws of Florida, is amended to read:

497.260 Cemeteries; exemption; investigation and mediation.—

(2) Section 497.276(1) as to burial records, and ss. 497.152(1)(d), 497.164, 497.2765 ~~497.310~~, 497.280, and 497.284 apply to all cemeteries in this state.

Reviser's note.—Amended to conform to the redesignation of s. 497.310 as s. 497.2765 by the reviser, effective October 1, 2005, incident to the reorganization of chapter 497 by ch. 2004-301, Laws of Florida.

Section 96. Effective October 1, 2005, subsection (5) of section 497.369, Florida Statutes, as amended and renumbered from section 470.007, Florida Statutes, by section 74 of chapter 2004-301, Laws of Florida, is amended to read:

497.369 Embalmers; licensure as an embalmer by endorsement; licensure of a temporary embalmer.—

(5) There may be adopted by the licensing authority rules authorizing an applicant who has met the requirements of paragraphs (1)(b) and (c) and who is awaiting an opportunity to take the examination required by subsection (4) to be licensed as a temporary licensed embalmer. A temporary licensed ~~temporary~~ embalmer may work as an embalmer in a licensed funeral establishment under the general supervision of a licensed embalmer. Such temporary license shall expire 60 days after the date of the next available examination required under subsection (4); however, the temporary license may be renewed one time under the same conditions as initial issuance. The fee for issuance or renewal of an embalmer temporary license shall be set by rule of the licensing authority but may not exceed $200. The fee required in this subsection shall be nonrefundable and in addition to the fee required in subsection (1).

Reviser's note.—Amended to eliminate redundancy.

Section 97. Effective October 1, 2005, paragraph (j) of subsection (1), paragraph (a) of subsection (5), and subsection (6) of section 497.453, Florida Statutes, as amended and renumbered from section 497.407, Florida Statutes, by section 102 of chapter 2004-301, Laws of Florida, are amended to read:

497.453 Application for preneed license, procedures and criteria; renewal; reports.—

(1) PRENEED LICENSE APPLICATION PROCEDURES.—

(j) The application shall disclose the existence of all preneed contracts for service or merchandise entered into by the applicant, or by any other entity under common control with the applicant, without or prior to authorization under this section or predecessors to this section. As to each such contract, the applicant shall disclose the name and address of the contract purchaser, the status of the contract, and what steps or measures the applicant has taken to ensure performance of unfulfilled contracts, setting forth the treatment and status of funds received from the customer in regard to the contract, and stating the name and address of any institution where such funds are deposited and the number used by the institution to identify the account. With respect to contracts entered into before January 1, 1983, an application to issue or renew a preneed license may not be denied solely on the basis of such disclosure. The purchaser of any such contract may not be required to liquidate the account if such account was established before July 1, 1965. Information disclosed may be used by the licensing authority to notify the contract purchaser and the institution in which such funds are deposited should the holder of a preneed <u>license</u> be unable to fulfill the requirements of the contract.

(5) RENEWAL OF LICENSES.—

(a) A preneed license shall expire annually on June 1, unless renewed, or at such other time or times as may be provided by rule. The application for renewal of the license shall be on forms prescribed by rule and shall be accompanied <u>by</u> a renewal fee as specified in paragraph (c).

(6) QUARTERLY PAYMENTS.—In addition to other amounts required to be paid by this section, each preneed licensee shall pay to the Regulatory Trust Fund an amount established by rule not to exceed $10 for each preneed contract entered into. This amount must be paid within 60 days after the end of each quarter. These funds must be used to defray the cost of ~~in~~ administering the provisions of this part.

Reviser's note.—Amended to improve clarity and correct sentence construction.

Section 98. Effective October 1, 2005, subsection (8) of section 497.458, Florida Statutes, as amended and renumbered from section 497.417, Florida Statutes, by section 107 of chapter 2004-301, Laws of Florida, is amended to read:

497.458 Disposition of proceeds received on contracts.—

(8) If in the preneed licensee's opinion it does not have the ability to select the financial responsibility alternative of s. 497.461 or s. 497.462, then the preneed <u>licensee</u> ~~license~~ shall not have the right to sell or solicit preneed contracts.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation.

Section 99. Effective October 1, 2005, subsection (5) of section 497.466, Florida Statutes, as amended and renumbered from section 497.439, Florida Statutes, by section 115 of chapter 2004-301, Laws of Florida, is amended to read:

497.466 Preneed sales agents, license required; application procedures and criteria; responsibility of preneed licensee.—

(5) SIMPLIFIED PROCEDURES FOR SUBSEQUENT CHANGE OF SPONSORING LICENSEE.—The board may by rule establish simplified requirements and procedures under which any preneed sales agent, who within the 12 months preceding application under this subsection held in good standing a preneed sales agent license under this section, may obtain a preneed sales agent's license under this section to represent a different sponsoring preneed licensee. The simplified requirements shall dispense with the requirement for submission of fingerprints. The licensing authority may by rule prescribe forms to be used by applicants under this subsection, which forms may dispense with the requirement for any information not deemed by the licensing authority to be necessary to tracking the identity ~~identify~~ of the preneed licensee responsible for the activities of the preneed sales agent. No preneed sales agent licensee whose sales agent license issued by the board was revoked or suspended or otherwise terminated while in other than good standing, shall be eligible to use the simplified requirements and procedures. The issuance of a preneed sales agent license under this subsection shall not operate as a bar to any subsequent disciplinary action relating to grounds arising prior to obtaining the license under this subsection. There shall be a fee payable to the department under such simplified procedures, which fee shall be the same as the fee paid upon initial application for a preneed sales agent license, except that no fingerprint fee shall be required if such fingerprint fee is required for initial applications.

Reviser's note.—Amended to correct an apparent error.

Section 100. Effective October 1, 2005, subsection (3) of section 497.550, Florida Statutes, as amended and renumbered from section 497.361, Florida Statutes, by section 118 of chapter 2004-301, Laws of Florida, is amended to read:

497.550 Licensure of monument establishments required; procedures and criteria.—

(3) ACTION CONCERNING APPLICATIONS.—A duly completed application for licensure as a monument establishment, accompanied by the required application fee, shall be approved unless there is shown by clear and convincing evidence that the applicant will not, before commencing operations, have the facilities required by this part or that issuance of the license would pose an unreasonable risk to the public because of one or more of the following factors:

(a) The applicant's lack of experience.

(b) The applicant's lack of financial resources.

(c) The criminal or disciplinary record of the applicant or its principals.

(d) A demonstrated history of violations of the laws of this state by the applicant or its principals regarding the funeral or cemetery business or other business activities.

(e) A demonstrated history of lack of trustworthiness or integrity on the part of the applicant or its principals.

Reviser's note.—Amended to correct sentence construction.

Section 101. Effective October 1, 2005, paragraph (b) of subsection (3) of section 497.551, Florida Statutes, as created by section 119 of chapter 2004-301, Laws of Florida, is amended to read:

497.551 Renewal of monument establishment licensure.—

(3) A monument establishment licensee which as of 90 days prior to its monument establishment license renewal date also holds a preneed sales license issued under this chapter, shall renew its monument establishment license by payment of a renewal fee determined by its total gross aggregate at-need and preneed retail sales for the 12-month period ending 2 full calendar months prior to the month in which the renewal is required, as follows:

(b) Total sales <u>of</u> $50,001 to $250,000, renewal fee $1,500.

Reviser's note.—Amended to correct an apparent error.

Section 102. Effective October 1, 2005, subsection (1) of section 497.603, Florida Statutes, as amended and renumbered from section 470.018, Florida Statutes, by section 128 of chapter 2004-301, Laws of Florida, is amended to read:

497.603 Direct disposers, renewal of license.—

(1) A direct disposer's ~~renewal of~~ license <u>shall be renewed</u> upon receipt of the renewal application and fee set by rule of the licensing authority but not to exceed $250.

Reviser's note.—Amended to improve clarity and correct sentence construction.

Section 103. Effective October 1, 2005, paragraph (c) of subsection (2) and subsection (6) of section 497.604, Florida Statutes, as amended and renumbered from section 470.021, Florida Statutes, by section 129 of chapter 2004-301, Laws of Florida, are amended to read:

497.604 Direct disposal establishments, license required; licensing procedures and criteria; license renewal; regulation.—

(2) APPLICATION PROCEDURES.—

(c) The application shall name the licensed direct disposer or licensed funeral director who will be acting as a direct disposer in charge of the direct disposal establishment.

(6) RENEWAL OF LICENSE.—A direct disposal establishment license shall be renewed biennially pursuant to schedule, forms, and procedures and upon payment of a fee of $200. The licensing authority may from time to time increase the fee by rule but not to exceed $400.

Reviser's note.—Paragraph (2)(c) is amended to correct an apparent error. Subsection (6) is amended to improve clarity and facilitate correct interpretation.

Section 104. Effective October 1, 2005, subsection (3) of section 497.608, Florida Statutes, as created by section 133 of chapter 2004-301, Laws of Florida, is amended to read:

497.608 Liability for unintentional commingling of the residue of the cremation process.—

(3) If an operator follows the procedures set forth in written procedures filed with and approved by the licensing authority, or adopts and follows the standard uniform procedures adopted by the licensing authority, the operator shall not be liable for the unintentional or the incidental commingling of cremated remains resulting from more than one cremation cycle or from postcremation processing, shipping, packing, or identifying those remains.

Reviser's note.—Amended to improve clarity and correct sentence construction and to correct an apparent error.

Section 105. Subsection (12) of section 550.0251, Florida Statutes, is amended to read:

550.0251 The powers and duties of the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation.—The division shall administer this chapter and regulate the pari-mutuel industry under this chapter and the rules adopted pursuant thereto, and:

(12) The division shall have full authority and power to make, adopt, amend, or repeal rules relating to cardroom operations, to enforce and to carry out the provisions of s. 849.086, and to regulate the authorized cardroom activities in the state. ~~The division is authorized to adopt emergency rules prior to January 1, 1997, to implement the provisions of s. 849.086.~~

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

Section 106. Subsection (19) of section 553.791, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete obsolete language requiring a report to the Legislature on or before January 1, 2004.

Section 107. Subsection (1) of section 553.8413, Florida Statutes, is amended to read:

553.8413 Education Technical Advisory Committee.—Effective upon this act becoming a law, funds that are available under ss. 489.109(3) and 489.509(3) shall be allocated and expended by the Florida Building Commission as provided in this section.

(1) ~~Effective upon this act becoming a law, the Florida Building Commission shall appoint those members of the Building Construction Industry Advisory Committee on October 1, 2001, as established by rule 6A-10.029, Florida Administrative Code, to the Education Technical Advisory Committee of the Florida Building Commission to complete their terms of office.~~ Members of the Florida Building Commission shall ~~also~~ be appointed to the Education Technical Advisory Committee. The members of the committee shall broadly represent the building construction industry and must consist of no fewer than 10 persons. The chairperson of the Florida Building Commission shall annually designate the chairperson of the committee. The terms of the committee members shall be 2 years each, and members may be reappointed at the discretion of the Florida Building Commission.

Reviser's note.—Amended to delete an obsolete provision. The terms of office of the members of the Building Construction Industry Advisory Committee on October 1, 2001, as appointed to the Education Technical Advisory Committee of the Florida Building Commission have been completed.

Section 108. Subsection (4) of section 556.112, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete obsolete language requiring a report to the Legislature before January 1, 2004.

Section 109. Subsection (2) of section 558.002, Florida Statutes, is amended to read:

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

(2) "Association" has the same meaning as in s. 718.103(2), s. 719.103(2), s. 720.301(9), or s. 723.075 ~~723.025~~.

Reviser's note.—Amended to conform to context. Section 723.075 relates to the meaning of the term "association" in regard to homeowners' associations for mobile home parks. Section 723.025 relates to a park owner's access to mobile homes and lots.

Section 110. Paragraph (a) of subsection (12) of section 558.004, Florida Statutes, is amended to read:

558.004 Notice and opportunity to repair.—

(12) This chapter does not:

(a) Bar or limit any rights, including the right of specific performance to the extent such right would be available in the absence of this chapter ~~act~~,

any causes of action, or any theories on which liability may be based, except as specifically provided in this chapter;

Reviser's note.—Amended to improve clarity. Chapter 2004-342, Laws of Florida, changed all other references to "act" in this section to "chapter."

Section 111. Subsection (2) of section 560.408, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete obsolete language requiring a report to the President of the Senate and the Speaker of the House of Representatives on January 1, 2004.

Section 112. Section 570.235, Florida Statutes, is repealed.

Reviser's note.—This section created a Pest Exclusion Advisory Committee which was to conclude its findings and issue a report by January 1, 2001.

Section 113. Subsection (14) of section 570.71, Florida Statutes, is repealed, and subsection (2) of that section is amended to read:

570.71 Conservation easements and agreements.—

(2) To achieve the purposes of this act, beginning no sooner than July 1, 2002, and every year thereafter, the department may accept applications for project proposals that:

(a) Purchase conservation easements, as defined in s. 704.06.

(b) Purchase rural-lands-protection easements pursuant to this act.

(c) Fund resource conservation agreements pursuant to this act.

(d) Fund agricultural protection agreements pursuant to this act.

~~No funds may be expended to implement this subsection prior to July 1, 2002.~~

Reviser's note.—Subsection (2) is amended to delete obsolete language. Subsection (14) is repealed to delete obsolete language requiring a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2001.

Section 114. Subsection (3) of section 581.131, Florida Statutes, is amended to read:

581.131 Certificate of registration.—

(3) Before any nurseryman, stock dealer, agent, or plant broker advertises nursery stock for sale, a copy of the certificate of registration must be provided to the publisher of the advertisement. The registration number issued by the department and printed on the certificate of registration must be included in the advertisement. Registration numbers printed in the advertisements must be legible. ~~Any advertisement for the sale of nursery~~

~~stock in print prior to July 1, 1995, shall be exempt from the requirements of this subsection.~~

Reviser's note.—Amended to delete obsolete language relating to advertisements in print prior to July 1, 1995.

Section 115. Subsections (1) and (3) of section 620.9901, Florida Statutes, are repealed.

Reviser's note.—Subsection (1) is repealed to delete obsolete language applying the Revised Uniform Partnership Act of 1995 to specified partnerships between January 1, 1996, and January 1, 1998. Subsection (3) provides for voluntary application of the act between January 1, 1996, and January 1, 1998.

Section 116. Subsection (5) of section 624.426, Florida Statutes, is amended to read:

624.426 Exceptions to countersignature law.—Section 624.425 does not apply to:

(5) Policies of insurance issued by insurers whose agents represent, as to property, casualty, and surety insurance, only one company or group of companies under common ownership and <u>for which</u> the application has been lawfully submitted to the insurer.

Reviser's note.—Amended to improve clarity.

Section 117. Subsection (1) of section 626.112, Florida Statutes, is reenacted to read:

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

(1)(a) No person may be, act as, or advertise or hold himself or herself out to be an insurance agent, insurance adjuster, or customer representative unless he or she is currently licensed by the department and appointed by an appropriate appointing entity or person.

(b) Except as provided in subsection (6) or in applicable department rules, and in addition to other conduct described in this chapter with respect to particular types of agents, a license as an insurance agent, service representative, customer representative, or limited customer representative is required in order to engage in the solicitation of insurance. For purposes of this requirement, as applicable to any of the license types described in this section, the solicitation of insurance is the attempt to persuade any person to purchase an insurance product by:

1. Describing the benefits or terms of insurance coverage, including premiums or rates of return;

2. Distributing an invitation to contract to prospective purchasers;

3. Making general or specific recommendations as to insurance products;

4. Completing orders or applications for insurance products; or

5. Comparing insurance products, advising as to insurance matters, or interpreting policies or coverages.

However, an employee leasing company licensed pursuant to chapter 468 which is seeking to enter into a contract with an employer that identifies products and services offered to employees may deliver proposals for the purchase of employee leasing services to prospective clients of the employee leasing company setting forth the terms and conditions of doing business; classify employees as permitted by s. 468.529; collect information from prospective clients and other sources as necessary to perform due diligence on the prospective client and to prepare a proposal for services; provide and receive enrollment forms, plans, and other documents; and discuss or explain in general terms the conditions, limitations, options, or exclusions of insurance benefit plans available to the client or employees of the employee leasing company were the client to contract with the employee leasing company. Any advertising materials or other documents describing specific insurance coverages must identify and be from a licensed insurer or its licensed agent or a licensed and appointed agent employed by the employee leasing company. The employee leasing company may not advise or inform the prospective business client or individual employees of specific coverage provisions, exclusions, or limitations of particular plans. As to clients for which the employee leasing company is providing services pursuant to s. 468.525(4), the employee leasing company may engage in activities permitted by ss. 626.7315, 626.7845, and 626.8305, subject to the restrictions specified in those sections. If a prospective client requests more specific information concerning the insurance provided by the employee leasing company, the employee leasing company must refer the prospective business client to the insurer or its licensed agent or to a licensed and appointed agent employed by the employee leasing company.

Reviser's note.—Section 20, ch. 2004-390, Laws of Florida, amended paragraph (1)(a) without publishing the flush left language at the end of the subsection. Absent affirmative evidence of legislative intent to repeal the flush left language at the end of the subsection, subsection (1) is reenacted to confirm that the omission was not intended.

Section 118. Subsection (1) of section 626.641, Florida Statutes, is amended to read:

626.641 Duration of suspension or revocation.—

(1) The department shall, in its order suspending a license or appointment or in its order suspending the eligibility of a person to hold or apply for such license or appointment, specify the period during which the suspension is to be in effect; but such period shall not exceed 2 years. The license, appointment, or eligibility shall remain suspended during the period so specified, subject, however, to any rescission or modification of the order by the department, or modification or reversal thereof by the court, prior to

expiration of the suspension period. A license, appointment, or eligibility which has been suspended shall not be reinstated except upon request for such reinstatement and, in the case of a second suspension, completion of continuing education courses prescribed and approved by the department ~~or office~~; but the department shall not grant such reinstatement if it finds that the circumstance or circumstances for which the license, appointment, or eligibility was suspended still exist or are likely to recur.

Reviser's note.—Amended to delete the words "or office" as added by s. 44, ch. 2004-374, Laws of Florida. Section 48, ch. 2004-390, Laws of Florida, deleted all other references to "office" to make provision for the Department of Financial Services to regulate insurance adjusters rather than the Office of Insurance Regulation.

Section 119. Section 627.6685, Florida Statutes, is repealed.

Reviser's note.—This section, which relates to mental health coverage, does not apply to benefits for services furnished on or after September 30, 2001.

Section 120. Paragraph (a) of subsection (9) of section 627.6699, Florida Statutes, is amended to read:

627.6699 Employee Health Care Access Act.—

(9) SMALL EMPLOYER CARRIER'S ELECTION TO BECOME A RISK-ASSUMING CARRIER OR A REINSURING CARRIER.—

(a) A small employer carrier must elect to become either a risk-assuming carrier or a reinsuring carrier. ~~Each small employer carrier must make an initial election, binding through January 1, 1994. The carrier's initial election must be made no later than October 31, 1992.~~ By October 31, 1993, all small employer carriers must file a final election, which is binding for 2 years, from January 1, 1994, through December 31, 1995, after which an election shall be binding for a period of 5 years. Any carrier that is not a small employer carrier ~~on October 31, 1992,~~ and intends to become a small employer carrier ~~after October 31, 1992,~~ must file its designation when it files the forms and rates it intends to use for small employer group health insurance; such designation shall be binding for 2 years after the date of approval of the forms and rates, and any subsequent designation is binding for 5 years. The office may permit a carrier to modify its election at any time for good cause shown, after a hearing.

Reviser's note.—Amended to delete obsolete language relating to small employer carriers' initial elections by specified dates.

Section 121. Subparagraph 5. of paragraph (b) of subsection (5) of section 627.736, Florida Statutes, is amended to read:

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

(5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

(b)

5. ~~Effective upon this act becoming a law and before November 1, 2001, allowable amounts that may be charged to a personal injury protection insurance insurer and insured for magnetic resonance imaging services shall not exceed 200 percent of the allowable amount under Medicare Part B for year 2001, for the area in which the treatment was rendered. Beginning November 1, 2001,~~ Allowable amounts that may be charged to a personal injury protection insurance insurer and insured for magnetic resonance imaging services shall not exceed 175 percent of the allowable amount under the participating physician fee schedule of Medicare Part B for year 2001, for the area in which the treatment was rendered, adjusted annually on August 1 to reflect the prior calendar year's changes in the annual Medical Care Item of the Consumer Price Index for All Urban Consumers in the South Region as determined by the Bureau of Labor Statistics of the United States Department of Labor for the 12-month period ending June 30 of that year, except that allowable amounts that may be charged to a personal injury protection insurance insurer and insured for magnetic resonance imaging services provided in facilities accredited by the Accreditation Association for Ambulatory Health Care, the American College of Radiology, or the Joint Commission on Accreditation of Healthcare Organizations shall not exceed 200 percent of the allowable amount under the participating physician fee schedule of Medicare Part B for year 2001, for the area in which the treatment was rendered, adjusted annually on August 1 to reflect the prior calendar year's changes in the annual Medical Care Item of the Consumer Price Index for All Urban Consumers in the South Region as determined by the Bureau of Labor Statistics of the United States Department of Labor for the 12-month period ending June 30 of that year. This paragraph does not apply to charges for magnetic resonance imaging services and nerve conduction testing for inpatients and emergency services and care as defined in chapter 395 rendered by facilities licensed under chapter 395.

Reviser's note.—Amended to delete an obsolete provision limiting charges to personal injury insurers and insureds for magnetic resonance imaging to 200 percent of the allowable amount under Medicare Part B until November 1, 2001.

Section 122. Subsection (4) of section 628.909, Florida Statutes, is repealed, and subsection (1) of that section is amended to read:

628.909 Applicability of other laws.—

(1) The Florida Insurance Code shall not apply to captive insurers or industrial insured captive insurers except as provided in this part and subsections (2) and~~,~~ (3)~~, and (4)~~.

Reviser's note.—Subsection (1) is amended to delete a reference to subsection (4), which is repealed. Subsection (4) relates to an exemption from s. 624.404(8), which was repealed by s. 14, ch. 91-108, Laws of Florida.

Section 123. Paragraph (c) of subsection (3) of section 633.0215, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete a provision that has served its purpose. The provision allowed locally adopted fire code requirements to be deemed local variations of the Florida Fire Prevention Code until adoption of a statewide firesafety code or rescission of the requirements, such action taking place no later than January 1, 2002. The State Fire Marshal has adopted a statewide firesafety code.

Section 124. Subsection (2) of section 636.240, Florida Statutes, is amended to read:

636.240 Injunctions.—

(2) The venue for any proceeding brought ~~bought~~ pursuant to this section shall be in the Circuit Court of Leon County.

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

Section 125. Subsection (10) of section 641.51, Florida Statutes, is amended to read:

641.51 Quality assurance program; second medical opinion requirement.—

(10) Each organization shall adopt recommendations for preventive pediatric health care which are consistent with the requirements for health checkups for children developed for the Medicaid program. Each organization shall establish goals to achieve ~~80-percent compliance by July 1, 1998, and~~ 90-percent compliance by July 1, 1999, for their enrolled pediatric population.

Reviser's note.—Amended to delete obsolete language relating to organizational compliance by July 1, 1998.

Section 126. Subsection (2) of section 648.50, Florida Statutes, is amended to read:

648.50 Effect of suspension, revocation upon associated licenses and licensees.—

(2) In case of the suspension or revocation of the license or appointment, or the eligibility to hold a license or appointment, of any bail bond agent, the license, appointment, or eligibility of any and all bail bond agents who are members of a bail bond agency, whether incorporated or unincorporated, and any and all temporary bail bond agents ~~or runners~~ employed by such bail bond agency, who knowingly are parties to the act which formed the ground for the suspension or revocation may likewise be suspended or revoked.

Reviser's note.—Amended to delete an obsolete reference. All other references to "runners" were deleted from this section by s. 80, ch. 2003-267, Laws of Florida, and s. 71, ch. 2003-281, Laws of Florida.

Section 127. Paragraph (e) of subsection (1) of section 650.05, Florida Statutes, is amended to read:

650.05 Plans for coverage of employees of political subdivisions.—

(1) Each political subdivision of the state is authorized to submit for approval by the state agency a plan for extending the benefits of Title II of the Social Security Act, in conformity with the applicable provisions of such act, to employees of such political subdivisions. Each such plan and any amendment thereof shall be approved by the state agency if it is found that such plan, or such plan as amended, is in conformity with such requirements as are provided in regulations of the state agency, except that no such plan shall be approved unless:

(e) It provides that the political subdivision will make such reports, in such form and containing such information, as the state agency may from time to time require, and comply with such provisions as the state agency or the Secretary of Health and Human Services ~~Health, Education, and Welfare~~ may from time to time find necessary to assure the correctness and verification of such reports; and

Reviser's note.—Amended to conform to the transfer of the duties of the former Secretary of Health, Education, and Welfare concerning Social Security to the Secretary of Health and Human Services by Pub. L. No. 96-88.

Section 128. Subparagraph 6. of paragraph (a) of subsection (2) of section 655.948, Florida Statutes, is repealed.

Reviser's note.—Subparagraph (2)(a)6., which relates to the failure to meet the minimum daily liquidity required of s. 658.68, is repealed. Section 658.68 was repealed by s. 25, ch. 2004-340, Laws of Florida, and s. 108, ch. 2004-390, Laws of Florida.

Section 129. Subsection (2) of section 658.60, Florida Statutes, is amended to read:

658.60 Depositories of public moneys and pledge of assets.—

(2) Notwithstanding any other provision of this section or the provisions of any other law requiring security for deposits of funds in the form of surety bond, in the form of the deposit or pledge of securities, or in any other form, security for such deposits shall not be required to the extent that such deposits are insured under the provisions of the Federal Deposit Insurance Act, as now or hereafter amended. Recognition is accorded to the custom and usage, and its practicality, of the deposit or pledge of securities by banks, as security for deposits, in an aggregate amount which, because of the fluctuation from time to time of the aggregate amount of the deposits secured thereby, may at times be in an amount in excess of the required amount of such security without withdrawing and redepositing securities with each decrease and increase of the aggregate amount of deposits secured thereby. In order to effectuate the provisions of the first sentence of this subsection, ~~and in recognition of the availability of such excess securities for inclusion in the liquidity of state banks as provided in s. 658.68,~~ whenever

the amount of securities deposited or pledged exceeds the amount required for the deposits secured thereby, securities in an amount equal to such excess shall, for all purposes and laws, while such excess exists be, and be treated as, freed and discharged from such deposit and pledge even though not physically withdrawn or removed from such deposit or pledge~~, and, in determining the securities which are so freed and discharged, those securities which are eligible for inclusion in a state bank's liquidity as provided in s. 658.68 shall first be included in such determination~~. However, such excess securities which are not physically withdrawn or removed from deposit or from the pledge thereof shall immediately and automatically, for all purposes and laws, be, and be treated as, redeposited and repledged at such time or times as, and to the extent that, there is an increase in the amount of security required for funds deposited with the bank~~, and, in determining the securities which are so automatically and immediately redeposited and repledged, there shall first be included those securities which are not eligible for the aforesaid liquidity under s. 658.68~~.

Reviser's note.—Amended to conform to the repeal of s. 658.68 by s. 25, ch. 2004-340, Laws of Florida, and s. 108, ch. 2004-390, Laws of Florida.

Section 130. Subsection (1) of section 663.02, Florida Statutes, is amended to read:

663.02 Applicability of state banking laws.—

(1) International banking corporations having offices in this state shall be subject to all the provisions of the financial institutions codes and chapter 655 as though such international banking corporations were state banks, except where it may appear, from the context or otherwise, that such provisions are clearly applicable only to banks or trust companies organized under the laws of this state or the United States. Without limiting the foregoing general provisions, it is the intent of the Legislature that the following provisions shall be applicable to such banks or corporations: s. 655.031, relating to administrative enforcement guidelines; s. 655.032, relating to investigations, subpoenas, hearings, and witnesses; s. 655.0321, relating to hearings, proceedings, and related documents and restricted access thereto; s. 655.033, relating to cease and desist orders; s. 655.037, relating to removal by the office of an officer, director, committee member, employee, or other person; s. 655.041, relating to administrative fines and enforcement; and s. 658.49, relating to loans by banks not exceeding $50,000. International banking corporations shall not have the powers conferred on domestic banks by the provisions of s. 658.60, relating to deposits of public funds. ~~International banking corporations shall not be subject to the provisions of s. 658.68, relating to liquidity.~~ The provisions of chapter 687, relating to interest and usury, shall apply to all loans not subject to s. 658.49.

Reviser's note.—Amended to conform to the repeal of s. 658.68 by s. 25, ch. 2004-340, Laws of Florida, and s. 108, ch. 2004-390, Laws of Florida.

Section 131. Subsection (3) of section 663.318, Florida Statutes, is repealed.

Reviser's note.—Subsection (3), which subjects an international development bank organized under chapter 607 as a corporation for profit to s. 658.68, is repealed. Section 658.68 was repealed by s. 25, ch. 2004-340, Laws of Florida, and s. 108, ch. 2004-390, Laws of Florida.

Section 132. Subsection (4) of section 668.602, Florida Statutes, is amended to read:

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

(4) "Computer virus" means a computer program that is designed to replicate itself or affect another program or file in the computer by attaching a copy of the program or other set of instructions to one or more computer programs or files without the consent of the owner or lawful user. The term includes, but is not limited to, programs that are designed to contaminate other computer programs; compromise computer security; consume ~~consumer~~ computer resources; modify, destroy, record, or transmit data; or disrupt the normal operation of the computer, computer system, or computer network. The term also includes, but is not limited to, programs that are designed to use a computer without the knowledge and consent of the owner or authorized user and to send large quantities of data to a targeted computer network without the consent of the network for the purpose of degrading the targeted computer's or network's performance or for the purpose of denying access through the network to the targeted computer or network.

Reviser's note.—Amended to improve clarity.

Section 133. Subsection (1) of section 717.1400, Florida Statutes, is amended to read:

717.1400 Registration.—

(1) In order to file claims as a claimant's representative, acquire ownership of or entitlement to unclaimed property, receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts, the number of reported shares of stock, and the last four digits of social security numbers held by the department, a private investigator holding a Class "C" individual license under chapter 493 must register with the department on such form as the department shall prescribe by rule, and must be verified by the applicant. To register with the department, a private investigator must provide:

(a) A legible copy of the applicant's Class "A" business license under chapter 493 or that of the applicant's employer which holds a Class "A" business license under chapter 493.

(b) A legible copy of the applicant's Class "C" individual license issued under chapter 493.

(c) The applicant's business address and telephone number.

(d) The names of agents or employees, if any, who are designated to act on behalf of the private investigator, together with a legible copy of their

photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the private investigator's employer which holds a Class "A" business license under chapter 493.

Reviser's note.—Amended to improve clarity.

Section 134. Paragraph (d) of subsection (2) of section 718.112, Florida Statutes, is reenacted to read:

718.112 Bylaws.—

(2) REQUIRED PROVISIONS.—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(d) Unit owner meetings.—

1. There shall be an annual meeting of the unit owners. Unless the bylaws provide otherwise, a vacancy on the board caused by the expiration of a director's term shall be filled by electing a new board member, and the election shall be by secret ballot; however, if the number of vacancies equals or exceeds the number of candidates, no election is required. If there is no provision in the bylaws for terms of the members of the board, the terms of all members of the board shall expire upon the election of their successors at the annual meeting. Any unit owner desiring to be a candidate for board membership shall comply with subparagraph 3. A person who has been convicted of any felony by any court of record in the United States and who has not had his or her right to vote restored pursuant to law in the jurisdiction of his or her residence is not eligible for board membership. The validity of an action by the board is not affected if it is later determined that a member of the board is ineligible for board membership due to having been convicted of a felony.

2. The bylaws shall provide the method of calling meetings of unit owners, including annual meetings. Written notice, which notice must include an agenda, shall be mailed, hand delivered, or electronically transmitted to each unit owner at least 14 days prior to the annual meeting and shall be posted in a conspicuous place on the condominium property at least 14 continuous days preceding the annual meeting. Upon notice to the unit owners, the board shall by duly adopted rule designate a specific location on the condominium property or association property upon which all notices of unit owner meetings shall be posted; however, if there is no condominium property or association property upon which notices can be posted, this requirement does not apply. In lieu of or in addition to the physical posting of notice of any meeting of the unit owners on the condominium property, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the condominium association. However, if broadcast notice is used in lieu of a notice posted physically on the

condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. Unless a unit owner waives in writing the right to receive notice of the annual meeting, such notice shall be hand delivered, mailed, or electronically transmitted to each unit owner. Notice for meetings and notice for all other purposes shall be mailed to each unit owner at the address last furnished to the association by the unit owner, or hand delivered to each unit owner. However, if a unit is owned by more than one person, the association shall provide notice, for meetings and all other purposes, to that one address which the developer initially identifies for that purpose and thereafter as one or more of the owners of the unit shall so advise the association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the association, or the manager or other person providing notice of the association meeting, shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association affirming that the notice was mailed or hand delivered, in accordance with this provision.

3. The members of the board shall be elected by written ballot or voting machine. Proxies shall in no event be used in electing the board, either in general elections or elections to fill vacancies caused by recall, resignation, or otherwise, unless otherwise provided in this chapter. Not less than 60 days before a scheduled election, the association shall mail, deliver, or electronically transmit, whether by separate association mailing or included in another association mailing, delivery, or transmission, including regularly published newsletters, to each unit owner entitled to a vote, a first notice of the date of the election. Any unit owner or other eligible person desiring to be a candidate for the board must give written notice to the association not less than 40 days before a scheduled election. Together with the written notice and agenda as set forth in subparagraph 2., the association shall mail, deliver, or electronically transmit a second notice of the election to all unit owners entitled to vote therein, together with a ballot which shall list all candidates. Upon request of a candidate, the association shall include an information sheet, no larger than 8½ inches by 11 inches, which must be furnished by the candidate not less than 35 days before the election, to be included with the mailing, delivery, or transmission of the ballot, with the costs of mailing, delivery, or electronic transmission and copying to be borne by the association. The association is not liable for the contents of the information sheets prepared by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. The division shall by rule establish voting procedures consistent with the provisions contained herein, including rules establishing procedures for giving notice by electronic transmission and rules providing for the secrecy of ballots. Elections shall be decided by a plurality of those ballots cast. There shall be no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of members of the board. No unit owner shall permit any other person to vote his or her ballot, and any such ballots improperly cast shall be deemed

invalid, provided any unit owner who violates this provision may be fined by the association in accordance with s. 718.303. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain assistance in casting the ballot. The regular election shall occur on the date of the annual meeting. The provisions of this subparagraph shall not apply to timeshare condominium associations. Notwithstanding the provisions of this subparagraph, an election is not required unless more candidates file notices of intent to run or are nominated than board vacancies exist.

4. Any approval by unit owners called for by this chapter or the applicable declaration or bylaws, including, but not limited to, the approval requirement in s. 718.111(8), shall be made at a duly noticed meeting of unit owners and shall be subject to all requirements of this chapter or the applicable condominium documents relating to unit owner decisionmaking, except that unit owners may take action by written agreement, without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable bylaws or declaration or any statute that provides for such action.

5. Unit owners may waive notice of specific meetings if allowed by the applicable bylaws or declaration or any statute. If authorized by the bylaws, notice of meetings of the board of administration, unit owner meetings, except unit owner meetings called to recall board members under paragraph (j), and committee meetings may be given by electronic transmission to unit owners who consent to receive notice by electronic transmission.

6. Unit owners shall have the right to participate in meetings of unit owners with reference to all designated agenda items. However, the association may adopt reasonable rules governing the frequency, duration, and manner of unit owner participation.

7. Any unit owner may tape record or videotape a meeting of the unit owners subject to reasonable rules adopted by the division.

8. Unless otherwise provided in the bylaws, any vacancy occurring on the board before the expiration of a term may be filled by the affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to the requirements of subparagraph 3. unless the association has opted out of the statutory election process, in which case the bylaws of the association control. Unless otherwise provided in the bylaws, a board member appointed or elected under this section shall fill the vacancy for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by paragraph (j) and rules adopted by the division.

Notwithstanding subparagraphs (b)2. and (d)3., an association may, by the affirmative vote of a majority of the total voting interests, provide for different voting and election procedures in its bylaws, which vote may be by a proxy specifically delineating the different voting and election procedures.

The different voting and election procedures may provide for elections to be conducted by limited or general proxy.

Reviser's note.—Section 4, ch. 2004-345, Laws of Florida, purported to amend paragraph (2)(d), but did not publish the amended paragraph. Absent affirmative evidence of legislative intent to repeal it, paragraph (2)(d) is reenacted to confirm that the omission was not intended.

Section 135. Paragraph (d) of subsection (2) of section 720.303, Florida Statutes, as created by section 18 of chapter 2004-345, Laws of Florida, and paragraph (a) of subsection (10) of section 720.303, Florida Statutes, are amended to read:

720.303 Association powers and duties; meetings of board; official records; budgets; financial reporting; association funds; recalls.—

(2) BOARD MEETINGS.—

(d) If 20 percent of the total voting interests petition the board to address an item of business, the board shall at its next regular board meeting or at a special meeting of the board, but not later than 60 days after the receipt of the petition, take the petitioned item up on an agenda. The board shall give all members notice of the meeting at which the petitioned item shall be addressed in accordance with the 14-day notice requirement pursuant to subparagraph (c)2. ~~subparagraph 2.~~ Each member shall have the right to speak for at least 3 minutes on each matter placed on the agenda by petition, provided that the member signs the sign-up sheet, if one is provided, or submits a written request to speak prior to the meeting. Other than addressing the petitioned item at the meeting, the board is not obligated to take any other action requested by the petition.

(10) RECALL OF DIRECTORS.—

(a)1. Regardless of any provision to the contrary contained in the governing documents, subject to the provisions of s. 720.307 regarding transition of association control, any member of the board of ~~or~~ directors may be recalled and removed from office with or without cause by a majority of the total voting interests.

2. When the governing documents, including the declaration, articles of incorporation, or bylaws, provide that only a specific class of members is entitled to elect a board director or directors, only that class of members may vote to recall those board directors so elected.

Reviser's note.—Paragraph (2)(d) as created by s. 18, ch. 2004-345, Laws of Florida, is amended to improve clarity and facilitate correct interpretation. Paragraph (d) is not divided into subparagraphs; subparagraph (c)2. relates to the 14-day notice. Paragraph (10)(a) is amended to conform to context.

Section 136. Subsection (1) of section 720.402, Florida Statutes, is amended to read:

720.402 Publication of false and misleading information.—

(1) Any person who, in reasonable reliance upon any material statement or information that is false or misleading and published by or under authority from the developer in advertising and promotional materials, including, but not limited to, a contract of purchase ~~purchaser~~, the declaration of covenants, exhibits to a declaration of covenants, brochures, and newspaper advertising, pays anything of value toward the purchase of a parcel in a community located in this state has a cause of action to rescind the contract or collect damages from the developer for his or her loss before the closing of the transaction. After the closing of the transaction, the purchaser has a cause of action against the developer for damages under this section from the time of closing until 1 year after the date upon which the last of the events described in paragraphs (a) through (d) occurs:

(a) The closing of the transaction;

(b) The issuance by the applicable governmental authority of a certificate of occupancy or other evidence of sufficient completion of construction of the purchaser's residence to allow lawful occupancy of the residence by the purchaser. In counties or municipalities in which certificates of occupancy or other evidences of completion sufficient to allow lawful occupancy are not customarily issued, for the purpose of this section, evidence of lawful occupancy shall be deemed to be given or issued upon the date that such lawful occupancy of the residence may be allowed under prevailing applicable laws, ordinances, or statutes;

(c) The completion by the developer of the common areas and such recreational facilities, whether or not the same are common areas, which the developer is obligated to complete or provide under the terms of the written contract, governing documents, or written agreement for purchase or lease of the parcel; or

(d) In the event there is not a written contract or agreement for sale or lease of the parcel, then the completion by the developer of the common areas and such recreational facilities, whether or not they are common areas, which the developer would be obligated to complete under any rule of law applicable to the developer's obligation.

Under no circumstances may a cause of action created or recognized under this section survive for a period of more than 5 years after the closing of the transaction.

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

Section 137. Paragraph (d) of subsection (4) of section 720.405, Florida Statutes, is amended to read:

720.405 Organizing committee; parcel owner approval.—

(4) The proposed revived declaration and other governing documents for the community shall:

(d) Contain no covenants that are more restrictive on the affected parcel owners than the covenants contained in the previous governing documents, except as permitted under s. 720.404(3) ~~720.402(3)~~; and

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 720.402 does not contain a subsection (3); s. 720.404(3) relates to restrictive covenants.

Section 138. Subsection (2) of section 721.075, Florida Statutes, is reenacted to read:

721.075 Incidental benefits.—Incidental benefits shall be offered only as provided in this section.

(2) Each purchaser shall execute a separate acknowledgment and disclosure statement with respect to all incidental benefits, which statement shall include the following information:

(a) A fair description of the incidental benefit, including, but not limited to, any user fees or costs associated therewith and any restrictions upon use or availability.

(b) A statement that use of or participation in the incidental benefit by the prospective purchaser is completely voluntary, and that payment of any fee or other cost associated with the incidental benefit is required only upon such use or participation.

(c) A statement that the incidental benefit is not assignable or otherwise transferable by the prospective purchaser or purchaser.

(d) The following disclosure in conspicuous type immediately above the space for the purchaser's signature:

The incidental benefit[s] described in this statement is [are] offered to prospective purchasers of the timeshare plan [or other permitted reference pursuant to s. 721.11(5)(a)]. This [These] benefit[s] is [are] available for your use for [some period 3 years or less] after the first date that the timeshare plan is available for your use. The availability of the incidental benefit[s] may or may not be renewed or extended. You should not purchase an interest in the timeshare plan in reliance upon the continued availability or renewal or extension of this [these] benefit[s].

(e) A statement indicating the source of the services, points, or other products that constitute the incidental benefit.

The acknowledgment and disclosure statement for any incidental benefit shall be filed with the division prior to use. Each purchaser shall receive a copy of his or her executed acknowledgment and disclosure statement as a document required to be provided to him or her pursuant to s. 721.10(1)(b).

Reviser's note.—Section 7, ch. 2004-279, Laws of Florida, added paragraph (e) to subsection (2) without publishing the flush left language at the end of the subsection. Absent affirmative evidence of legislative intent to

repeal it, the flush left language is reenacted to confirm that the omission was not intended.

Section 139. Subsection (4) of section 744.3678, Florida Statutes, is amended to read:

744.3678 Annual accounting.—

(4) The guardian shall pay from the ward's estate to the clerk of the circuit court a fee based upon the following graduated fee schedule, upon the filing of the annual financial return, for the auditing of the return:

(a) For estates with a value of $25,000 or less the clerk of the court may charge a fee of up to $15.

(b) For estates with a value of more than $25,000 up to and including $100,000 the clerk of the court may charge a fee of up to $75.

(c) For estates with a value of more than $100,000 up to and including $500,000 the clerk of the court may charge a fee of up to $150.

(d) For estates with a value in excess of $500,000 the clerk of the court may charge a fee of up to $225.

Upon petition by the guardian, the court may waive the auditing fee upon a showing of insufficient funds in the ward's estate. Any guardian unable to pay the auditing fee may petition the court for a waiver of the fee. The court may waive the fee after it has reviewed the documentation filed by the guardian in support of the waiver.

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

Section 140. Paragraph (d) of subsection (2) of section 744.7021, Florida Statutes, is amended to read:

744.7021 Statewide Public Guardianship Office.—There is hereby created the Statewide Public Guardianship Office within the Department of Elderly Affairs.

(2) The executive director shall, within available resources, have oversight responsibilities for all public guardians.

(d) By ~~January 1, 2004, and by~~ January 1 of each year ~~thereafter~~, the executive director shall provide a status report and provide further recommendations to the secretary that address the need for public guardianship services and related issues.

Reviser's note.—Amended to improve clarity and delete obsolete language.

Section 141. Subsection (5) of section 782.081, Florida Statutes, is amended to read:

782.081 Commercial exploitation of self-murder.—

(5) A person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 ~~774.084~~.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 774.084 does not exist; s. 775.084 provides punishment for felonies.

Section 142. Paragraph (b) of subsection (4) of section 784.046, Florida Statutes, is amended to read:

784.046 Action by victim of repeat violence, sexual violence, or dating violence for protective injunction; powers and duties of court and clerk of court; filing and form of petition; notice and hearing; temporary injunction; issuance; statewide verification system; enforcement.—

(4)

(b) The sworn petition must be in substantially the following form:

PETITION FOR INJUNCTION FOR PROTECTION AGAINST REPEAT VIOLENCE, SEXUAL VIOLENCE, OR DATING VIOLENCE

Before me, the undersigned authority, personally appeared Petitioner ...(Name)..., who has been sworn and says that the following statements are true:

1. Petitioner resides at ...(address)... (A petitioner for an injunction for protection against sexual violence may furnish an address to the court in a separate confidential filing if, for safety reasons, the petitioner requires the location of his or her current residence to be confidential pursuant to s. 119.07(6)(s) ~~119.07(3)(s)~~, Florida Statutes.)

2. Respondent resides at ...(address)...

3.a. Petitioner has suffered repeat violence as demonstrated by the fact that the respondent has:

...(enumerate incidents of violence)...

.....
.....
.....

b. Petitioner has suffered sexual violence as demonstrated by the fact that the respondent has: (enumerate incident of violence and include incident report number from law enforcement agency or attach notice of inmate release.)

.....
.....
.....

c. Petitioner is a victim of dating violence and has reasonable cause to believe that he or she is in imminent danger of becoming the victim of another act of dating violence or has reasonable cause to believe that he or she is in imminent danger of becoming a victim of dating violence, as demonstrated by the fact that the respondent has: ...(list the specific incident or incidents of violence and describe the length of time of the relationship, whether it has been in existence during the last 6 months, the nature of the relationship of a romantic or intimate nature, the frequency and type of interaction, and any other facts that characterize the relationship.)...

.....
.....
.....

4. Petitioner genuinely fears repeat violence by the respondent.

5. Petitioner seeks: an immediate injunction against the respondent, enjoining him or her from committing any further acts of violence; an injunction enjoining the respondent from committing any further acts of violence; and an injunction providing any terms the court deems necessary for the protection of the petitioner and the petitioner's immediate family, including any injunctions or directives to law enforcement agencies.

Reviser's note.—Amended to conform to the redesignation of s. 119.07(3)(s) as s. 119.07(6)(s) by s. 7, ch. 2004-335, Laws of Florida.

Section 143. Paragraph (a) of subsection (1) of section 895.02, Florida Statutes, is amended to read:

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

(1) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime which is chargeable by indictment or information under the following provisions of the Florida Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 403.727(3)(b), relating to environmental control.

3. Section 409.920 or s. 409.9201, relating to Medicaid fraud.

4. Section 414.39, relating to public assistance fraud.

5. Section 440.105 or s. 440.106, relating to workers' compensation.

6. Section 465.0161, relating to distribution of medicinal drugs without a permit as an Internet pharmacy.

7. Sections 499.0051, 499.0052, 499.00535 ~~499.0053~~, 499.00545, and 499.0691, relating to crimes involving contraband and adulterated drugs.

8. Part IV of chapter 501, relating to telemarketing.

9. Chapter 517, relating to sale of securities and investor protection.

10. Section 550.235, s. 550.3551, or s. 550.3605, relating to dogracing and horseracing.

11. Chapter 550, relating to jai alai frontons.

12. Chapter 552, relating to the manufacture, distribution, and use of explosives.

13. Chapter 560, relating to money transmitters, if the violation is punishable as a felony.

14. Chapter 562, relating to beverage law enforcement.

15. Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.

16. Section 655.50, relating to reports of currency transactions, when such violation is punishable as a felony.

17. Chapter 687, relating to interest and usurious practices.

18. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.

19. Chapter 782, relating to homicide.

20. Chapter 784, relating to assault and battery.

21. Chapter 787, relating to kidnapping.

22. Chapter 790, relating to weapons and firearms.

23. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s. 796.05, or s. 796.07, relating to prostitution and sex trafficking.

24. Chapter 806, relating to arson.

25. Section 810.02(2)(c), relating to specified burglary of a dwelling or structure.

26. Chapter 812, relating to theft, robbery, and related crimes.

27. Chapter 815, relating to computer-related crimes.

28. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

29. Chapter 825, relating to abuse, neglect, or exploitation of an elderly person or disabled adult.

30. Section 827.071, relating to commercial sexual exploitation of children.

31. Chapter 831, relating to forgery and counterfeiting.

32. Chapter 832, relating to issuance of worthless checks and drafts.

33. Section 836.05, relating to extortion.

34. Chapter 837, relating to perjury.

35. Chapter 838, relating to bribery and misuse of public office.

36. Chapter 843, relating to obstruction of justice.

37. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

38. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.

39. Chapter 874, relating to criminal street gangs.

40. Chapter 893, relating to drug abuse prevention and control.

41. Chapter 896, relating to offenses related to financial transactions.

42. Sections 914.22 and 914.23, relating to tampering with a witness, victim, or informant, and retaliation against a witness, victim, or informant.

43. Sections 918.12 and 918.13, relating to tampering with jurors and evidence.

Reviser's note.—Amended to conform to the redesignation of the referenced s. 499.0053 as s. 499.00535 by the reviser incident to compiling the 2003 Florida Statutes.

Section 144. Paragraph (i) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(i) LEVEL 9
316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
327.35(3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
499.00535 ~~499.0053~~	1st	Sale or purchase of contraband legend drugs resulting in great bodily harm.
560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding $100,000 by money transmitter.

Florida Statute	Felony Degree	Description
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	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.
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.

Florida Statute	Felony Degree	Description
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.
812.135(2)(b)	1st	Home-invasion robbery with weapon.
817.568(7)	2nd,PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.
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.
893.135 (1)(h)1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.

Florida Statute	Felony Degree	Description
893.135 (1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
893.135 (1)(k)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.—Amended to conform to the redesignation of the referenced s. 499.0053 as s. 499.00535 by the reviser incident to compiling the 2003 Florida Statutes.

Section 145. Section 932.706, Florida Statutes, is amended to read:

932.706 Forfeiture training requirements.—The Criminal Justice Standards and Training Commission shall develop a standardized course of training for basic recruits and continuing education which shall be designed to develop proficiency in the seizure and forfeiture of property under the Florida Contraband Forfeiture Act. ~~Such course of training and continuing education shall be developed and implemented by December 1, 1995.~~ The curriculum for the course of training and continuing education must include, but is not limited to, racial and ethnic sensitivity and a review of cases in this state which involve searches and seizures, the use of drug-courier profiles by law enforcement agencies, and the use of an order to stop based on a pretext.

Reviser's note.—Amended to delete an obsolete provision. The cited course of training and continuing education was to be developed and implemented by December 1, 1995.

Section 146. Subsection (3) of section 943.125, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete a provision that has served its purpose. The cited subsection provides for the development of arrest and security protocols by October 1, 1996.

Section 147. Subsection (2) of section 944.026, Florida Statutes, is amended to read:

944.026 Community-based facilities and programs.—

(2) ~~By January 1, 2002, and~~ Notwithstanding any other law, the department shall ensure that at least 400 of its contracted beds in nonsecure

community-based residential substance abuse treatment facilities authorized under subparagraph (1)(b)1. or probation and restitution centers authorized under paragraph (1)(c) are designated for transition assistance for inmates who are nearing their date of release from a correctional institution or a community correctional center. These designated beds shall be provided by private organizations that do not have a faith component and that are under contract with the department. In making placement decisions, the department and the contract providers shall give priority consideration to those inmates who are nearing their date of release and who are to be placed in some form of postrelease community supervision. However, if an inmate whose sentence expires upon his or her release from a correctional institution or a community correction center and for whom community supervision is not required demonstrates the need for or interest in and suitability for transition-housing assistance, as determined by the department, the inmate is eligible to be considered for placement in transition housing. A right to substance abuse program services is not stated, intended, or otherwise implied by this subsection.

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

Section 148. Paragraph (a) of subsection (5) of section 944.1905, Florida Statutes, is amended to read:

944.1905 Initial inmate classification; inmate reclassification.—The Department of Corrections shall classify inmates pursuant to an objective classification scheme. The initial inmate classification questionnaire and the inmate reclassification questionnaire must cover both aggravating and mitigating factors.

(5)(a) Notwithstanding any other provision of this section, the department shall assign to specific correctional facilities all inmates who are less than 18 years of age and who are not eligible for and have not been assigned to a facility for youthful offenders. Any such inmate who is less than 18 years of age shall be housed in a dormitory that is separate from inmates who are 18 years of age or older. Furthermore, the department shall provide any food service, education, and recreation for such inmate separately from inmates who are 18 years of age or older. ~~The department shall report to the Legislature on compliance with this paragraph by April 1, 2002.~~

Reviser's note.—Amended to delete obsolete language. The referenced report of compliance was due on April 1, 2002.

Section 149. Subsections (3) and (4) of section 944.803, Florida Statutes, are amended to read:

944.803 Faith-based programs for inmates.—

(3) ~~By March 1, 2002,~~ The department must have ~~at least three additional faith-based dormitory programs fully operational and by June 1, 2002, the department must have~~ at least ~~three more faith-based dormitory programs fully operational, for a total of~~ six new programs fully operational ~~by June 1, 2002~~. These six programs shall be similar to and in addition to the current faith-based pilot program. The six new programs shall be a joint

effort with the department and faith-based service groups within the community. The department shall ensure that an inmate's faith orientation, or lack thereof, will not be considered in determining admission to a faith-based program and that the program does not attempt to convert an inmate toward a particular faith or religious preference. The programs shall operate 24 hours a day within the existing correctional facilities. The programs must emphasize the importance of personal responsibility, meaningful work, education, substance abuse treatment, and peer support. Participation in the faith-based dormitory program shall be voluntary. However, at least 80 percent of the inmates participating in this program must be within 36 months of release. Assignment to these programs shall be based on evaluation and the length of time the inmate is projected to be assigned to that particular institution. In evaluating an inmate for this program, priority shall be given to inmates who have shown an indication for substance abuse. A right to substance abuse program services is not stated, intended, or otherwise implied by this subsection. The department may not remove an inmate once assigned to the program except for the purposes of population management, for inmate conduct that may subject the inmate to disciplinary confinement or loss of gain-time, for physical or mental health concerns, or for security or safety concerns. To support the programming component, the department shall assign a chaplain and a full-time clerical support person dedicated to each dormitory to implement and monitor the program and to strengthen volunteer participation and support. ~~By January 1, 2004, the department shall submit an evaluation report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the faith-based dormitory program. The report must contain the findings from an extensive and scientifically sound evaluation of the program, including at least a longitudinal followup of the inmates who have successfully completed the program compared to other similar inmates who have not participated and an opinion survey of the faith-based service providers.~~

(4) ~~Effective October 1, 2001,~~ The Department of Corrections shall assign chaplains to community correctional centers authorized pursuant to s. 945.091(1)(b). These chaplains shall strengthen volunteer participation by recruiting volunteers in the community to assist inmates in transition, and, if requested by the inmate, placement in a mentoring program or at a contracted substance abuse transition housing program. When placing an inmate in a contracted program, the chaplain shall work with the institutional transition assistance specialist in an effort to successfully place the released inmate.

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

Section 150. Subsection (7) of section 948.09, Florida Statutes, is amended to read:

948.09 Payment for cost of supervision and rehabilitation.—

(7) The department shall establish a payment plan for all costs ordered by the courts for collection by the department and a priority order for payments, except that victim restitution payments authorized under s. 948.03(1)(e) ~~948.03(5)~~ take precedence over all other court-ordered pay-

ments. The department is not required to disburse cumulative amounts of less than $10 to individual payees established on this payment plan.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. The referenced material is found in s. 948.03(1)(e).

Section 151. Subsection (2) of section 948.30, Florida Statutes, is amended to read:

948.30 Additional terms and conditions of probation or community control for certain sex offenses.—Conditions imposed pursuant to this section do not require oral pronouncement at the time of sentencing and shall be considered standard conditions of probation or community control for offenders specified in this section.

(2) Effective for a probationer or community controllee whose crime was committed on or after October 1, 1997, and who is placed on sex offender probation for a violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, in addition to any other provision of this section ~~subsection~~, the court must impose the following conditions of probation or community control:

(a) As part of a treatment program, participation at least annually in polygraph examinations to obtain information necessary for risk management and treatment and to reduce the sex offender's denial mechanisms. A polygraph examination must be conducted by a polygrapher trained specifically in the use of the polygraph for the monitoring of sex offenders, where available, and shall be paid for by the sex offender. The results of the polygraph examination shall not be used as evidence in court to prove that a violation of community supervision has occurred.

(b) Maintenance of a driving log and a prohibition against driving a motor vehicle alone without the prior approval of the supervising officer.

(c) A prohibition against obtaining or using a post office box without the prior approval of the supervising officer.

(d) If there was sexual contact, a submission to, at the probationer's or community controllee's expense, an HIV test with the results to be released to the victim or the victim's parent or guardian.

(e) Electronic monitoring when deemed necessary by the community control or probation officer and his or her supervisor, and ordered by the court at the recommendation of the Department of Corrections.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. The referenced subsection was s. 948.03(5), which was redesignated as s. 948.30 by s. 18, ch. 2004-373, Laws of Florida.

Section 152. Paragraph (a) of subsection (5) of section 957.07, Florida Statutes, is amended to read:

957.07 Cost-saving requirements.—

(5)(a) By February 1~~, 2002, and~~ each year ~~thereafter~~, the Prison Per-Diem Workgroup shall develop consensus per diem rates to be used when determining per diem rates of privately operated prisons. The Office of Program Policy Analysis and Government Accountability, the Office of the Auditor General, and the staffs of the appropriations committees of both the Senate and the House of Representatives are the principals of the workgroup. The workgroup may consult with other experts to assist in the development of the consensus per diem rates. All meetings of the workgroup shall be open to the public as provided in chapter 286.

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

Section 153. Subsection (4) of section 958.045, Florida Statutes, is amended to read:

958.045 Youthful offender basic training program.—

(4) Upon admittance to the department, an educational and substance abuse assessment shall be performed on each youthful offender. Upon admittance to the basic training program, each offender shall have a full substance abuse assessment to determine the offender's need for substance abuse treatment. The educational assessment shall be accomplished through the aid of the Test of Adult Basic Education or any other testing instrument approved by the Department of Education, as appropriate. Each offender who has not obtained a high school diploma shall be enrolled in an adult education program designed to aid the offender in improving his or her academic skills and earning a high school diploma. Further assessments of the prior vocational skills and future career ~~vocational~~ education shall be provided to the offender. A periodic evaluation shall be made to assess the progress of each offender, and upon completion of the basic training program the assessment and information from the department's record of each offender shall be transferred to the appropriate community residential program.

Reviser's note.—Reenacted to conform to ch. 2004-357, Laws of Florida.

Section 154. Subsection (12) of section 985.404, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete a provision that has served its purpose. The referenced workgroup's recommendations regarding development of a classification and placement system for juvenile offenders committed to residential programs was due by September 30, 2001.

Section 155. Section 1009.765, Florida Statutes, is amended to read:

1009.765 Ethics in Business scholarships for community colleges and independent postsecondary educational institutions.—When the former Department of Insurance or the Office of Insurance Regulation of the Financial Services Commission receives a $6 million settlement as specified in the Consent Order of the Treasurer and Insurance Commissioner, case number 18900-96-c, that portion of the $6 million not used to satisfy the requirements of section 18 of the Consent Order must be transferred from the

Insurance Regulatory Trust Fund to the State Student Financial Assistance Trust Fund to be ~~is~~ appropriated from the State Student Financial Assistance Trust Fund to provide Ethics in Business scholarships to students enrolled in public community colleges and independent postsecondary educational institutions eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program under s. 1009.89. The funds shall be allocated to institutions for scholarships in the following ratio: Two-thirds for community colleges and one-third for eligible independent institutions. The Department of Education shall administer the scholarship program for students attending community colleges and independent institutions. These funds must be allocated to institutions that provide an equal amount of matching funds generated by private donors for the purpose of providing Ethics in Business scholarships. Public funds may not be used to provide the match, nor may funds collected for other purposes. Notwithstanding any other provision of law, the State Board of Administration shall have the authority to invest the funds appropriated under this section. The State Board of Education may adopt rules for administration of the program.

Reviser's note.—Amended to improve clarity. Section 20.13, which created the Department of Insurance, was repealed by s. 3, ch. 2003-1, Laws of Florida, and the duties of the Department of Insurance were transferred to the Department of Financial Services or the Financial Services Commission. The words "to be" were substituted for the word "is" to facilitate correct interpretation.

Section 156. Paragraph (h) of subsection (7) of section 1012.796, Florida Statutes, is amended to read:

1012.796 Complaints against teachers and administrators; procedure; penalties.—

(7) A panel of the commission shall enter a final order either dismissing the complaint or imposing one or more of the following penalties:

(h) Refer the teacher, administrator ~~administer~~, or supervisor to the recovery network program provided in s. 1012.798 under such terms and conditions as the commission may specify.

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

Approved by the Governor April 5, 2005.

Filed in Office Secretary of State April 5, 2005.