CHAPTER 2005-209

House Bill No. 1693

An act relating to unemployment compensation; amending s. 120.80, F.S.; providing an exemption for special deputies from uniform rules of procedure; amending s. 443.071, F.S.; providing penalties for false employer schemes; providing the requirements for establishing prima facie evidence; authorizing certain access to records relating to investigations of unemployment compensation fraud; amending s. 443.091, F.S.; clarifying benefit eligibility; amending s. 443.1216, F.S.; clarifying the persons that employee leasing companies may lease to a client; clarifying the exemption of certain service from the definition of employment; amending s. 443.1217, F.S.; clarifying exempt wages for the purpose of determining employer contributions; amending s. 443.131, F.S.; revising the definition of "total excess payments"; prohibiting the transfer of unemployment experience by acquisition of a business in certain cases; providing for calculation of unemployment experience rating; providing penalties; amending s. 443.151, F.S.; providing for dismissal of untimely filed appeals; extending a deadline for recoupment of benefits; amending s. 895.02, F.S.; revising the definition of "racketeering activity"; reenacting ss. 16.56(1)(a), 655.50(3)(g), 896.101(2)(g), and 905.34(3), F.S., relating to the Office of Statewide Prosecution, the Florida Control of Money Laundering in Financial Institutions Act, the Florida Money Laundering Act, and the powers and duties of a statewide grand jury, respectively, to incorporate the amendment to s. 895.02, F.S., in references thereto; providing an effective date.

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

Section 1. Paragraph (b) of subsection (10) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.—

(10) AGENCY FOR WORKFORCE INNOVATION.—

(b) Notwithstanding s. 120.54(5), the uniform rules of procedure do not apply to appeal proceedings conducted under chapter 443 by the Unemployment Appeals Commission, special deputies, or unemployment appeals referees.

Section 2. Subsection (4) of section 443.071, Florida Statutes, is renumbered as subsection (5) and amended, and new subsections (4), (6), (7), and (8) are added to said section, to read:

443.071 Penalties.—

(4) Any person who establishes a fictitious employing unit by submitting to the Agency for Workforce Innovation or its tax collection service provider fraudulent employing unit records or tax or wage reports by the introduction of fraudulent records into a computer system, the intentional or deliberate

alteration or destruction of computerized information or files, or the theft of financial instruments, data, and other assets, for the purpose of enabling herself or himself or any other person to receive benefits under this chapter to which such person is not entitled, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5)~~(4)~~ In any prosecution or action under this section, the entry into evidence of the signature of a person on a document, letter, or other writing constitutes prima facie evidence of the person's identity if the following conditions exist:

(a) The document includes the person's name, residence address, and social security number ~~person gives her or his name, residence address, home telephone number, present or former place of employment, gender, date of birth, social security number, height, weight, and race~~.

(b) The signature of the person is witnessed by an agent or employee of the Agency for Workforce Innovation or its tax collection service provider at the time the document, letter, or other writing is filed.

(6) The entry into evidence of an application for unemployment benefits initiated by the use of the internet claims program or the interactive voice response system telephone claims program of the Agency for Workforce Innovation constitutes prima facie evidence of the establishment of a personal benefit account by or for an individual if the following information is provided: the applicant's name, residence address, date of birth, social security number, and present or former place of work.

(7) The entry into evidence of a transaction history generated by a personal identification number establishing that a certification or claim for one or more weeks of benefits was made against the benefit account of the individual, together with documentation that payment was paid by a state warrant made to the order of the person or by direct deposit via electronic means, constitutes prima facie evidence that the person claimed and received unemployment benefits from the state.

(8) All records relating to investigations of unemployment compensation fraud in the custody of the Agency for Workforce Innovation or its tax collection service provider are available for examination by the Department of Law Enforcement, the states attorneys, or the Office of the Statewide Prosecutor in the prosecution of offenses under s. 817.568 or in proceedings brought under this chapter.

Section 3. Paragraph (c) of subsection (1) of section 443.091, Florida Statutes, is amended to read:

443.091 Benefit eligibility conditions.—

(1) An unemployed individual is eligible to receive benefits for any week only if the Agency for Workforce Innovation finds that:

(c)1. She or he is able to work and is available for work. In order to assess eligibility for a claimed week of unemployment, the Agency for Workforce

Innovation shall develop criteria to determine a claimant's ability to work and availability for work.

2. Notwithstanding any other provision of this paragraph or paragraphs (b) and (d) ~~section~~, an otherwise eligible individual may not be denied benefits for any week because she or he is in training with the approval of the Agency for Workforce Innovation, and such an individual may not be denied benefits for any week in which she or he is in training with the approval of the Agency for Workforce Innovation by reason of subparagraph 1. relating to availability for work, or s. 443.101(2) relating to failure to apply for, or refusal to accept, suitable work. Training may be approved by the Agency for Workforce Innovation in accordance with criteria prescribed by rule. A claimant's eligibility during approved training is contingent upon satisfying eligibility conditions prescribed by rule.

3. Notwithstanding any other provision of this chapter, an individual who is in training approved under s. 236(a)(1) of the Trade Act of 1974, as amended, may not be determined to be ineligible or disqualified for benefits with respect to her or his enrollment in such training or because of leaving work that is not suitable employment to enter such training. As used in this subparagraph, the term "suitable employment" means, for a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, as defined for purposes of the Trade Act of 1974, as amended, the wages for which are at least 80 percent of the worker's average weekly wage as determined for purposes of the Trade Act of 1974, as amended.

4. Notwithstanding any other provision of this section, an otherwise eligible individual may not be denied benefits for any week by reason of subparagraph 1. because she or he is before any court of the United States or any state under a lawfully issued summons to appear for jury duty.

Section 4. Subsections (1) and (13) of section 443.1216, Florida Statutes, are amended to read:

443.1216 Employment.—Employment, as defined in s. 443.036, is subject to this chapter under the following conditions:

(1)(a) The employment subject to this chapter includes a service performed, including a service performed in interstate commerce, by:

1. An officer of a corporation.

2. An individual who, under the usual common-law rules applicable in determining the employer-employee relationship, is an employee. However, whenever a client, as defined in s. 443.036(18), which would otherwise be designated as an employing unit has contracted with an employee leasing company to supply it with workers, those workers are considered employees of the employee leasing company. An employee leasing company may lease corporate officers of the client to the client and ~~to~~ other workers to the client, except as prohibited by regulations of the Internal Revenue Service. Employees of an employee leasing company must be reported under the em-

ployee leasing company's tax identification number and contribution rate for work performed for the employee leasing company.

3. An individual other than an individual who is an employee under subparagraph 1. or subparagraph 2., who performs services for remuneration for any person:

a. As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages other than milk, or laundry or drycleaning services for his or her principal.

b. As a traveling or city salesperson engaged on a full-time basis in the solicitation on behalf of, and the transmission to, his or her principal of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations. This sub-subparagraph does not apply to an agent-driver or a commission-driver and does not apply to sideline sales activities performed on behalf of a person other than the salesperson's principal.

4. The services described in subparagraph 3. are employment subject to this chapter only if:

a. The contract of service contemplates that substantially all of the services are to be performed personally by the individual;

b. The individual does not have a substantial investment in facilities used in connection with the services, other than facilities used for transportation; and

c. The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

(b) Notwithstanding any other provision of this section, service for which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this chapter.

(c) If the services performed during at least one-half of a pay period by an employee for the person employing him or her constitute employment, all of the services performed by the employee during the period are deemed to be employment. If the services performed during more than one-half of the pay period by an employee for the person employing him or her do not constitute employment, all of the services performed by the employee during the period are not deemed to be employment. This paragraph does not apply to services performed in a pay period by an employee for the person employing him or her if any of those services are exempted under paragraph (13)(g).

(d) If two or more related corporations concurrently employ the same individual and compensate the individual through a common paymaster,

each related corporation is considered to have paid wages to the individual only in the amounts actually disbursed by that corporation to the individual and is not considered to have paid the wages actually disbursed to the individual by another of the related corporations.

1. As used in this paragraph, the term "common paymaster" means a member of a group of related corporations that disburses wages to concurrent employees on behalf of the related corporations and that is responsible for keeping payroll records for those concurrent employees. A common paymaster is not required to disburse wages to all the employees of the related corporations; however, this subparagraph does not apply to wages of concurrent employees which are not disbursed through a common paymaster. A common paymaster must pay concurrently employed individuals under this subparagraph by one combined paycheck.

2. As used in this paragraph, the term "concurrent employment" means the existence of simultaneous employment relationships between an individual and related corporations. Those relationships require the performance of services by the employee for the benefit of the related corporations, including the common paymaster, in exchange for wages that, if deductible for the purposes of federal income tax, are deductible by the related corporations.

3. Corporations are considered related corporations for an entire calendar quarter if they satisfy any one of the following tests at any time during the calendar quarter:

a. The corporations are members of a "controlled group of corporations" as defined in s. 1563 of the Internal Revenue Code of 1986 or would be members if paragraph 1563(a)(4) and subsection 1563(b) did not apply.

b. In the case of a corporation that does not issue stock, at least 50 percent of the members of the board of directors or other governing body of one corporation are members of the board of directors or other governing body of the other corporation or the holders of at least 50 percent of the voting power to select those members are concurrently the holders of at least 50 percent of the voting power to select those members of the other corporation.

c. At least 50 percent of the officers of one corporation are concurrently officers of the other corporation.

d. At least 30 percent of the employees of one corporation are concurrently employees of the other corporation.

4. The common paymaster must report to the tax collection service provider, as part of the unemployment compensation quarterly tax and wage report, the state unemployment compensation account number and name of each related corporation for which concurrent employees are being reported. Failure to timely report this information shall result in the related corporations being denied common paymaster status for that calendar quarter.

5. The common paymaster also has the primary responsibility for remitting contributions due under this chapter for the wages it disburses as the

common paymaster. The common paymaster must compute these contributions as though it were the sole employer of the concurrently employed individuals. If a common paymaster fails to timely remit these contributions or reports, in whole or in part, the common paymaster remains liable for the full amount of the unpaid portion of these contributions. In addition, each of the other related corporations using the common paymaster is jointly and severally liable for its appropriate share of these contributions. Each related corporation's share equals the greater of:

a. The liability of the common paymaster under this chapter, after taking into account any contributions made.

b. The liability under this chapter which, notwithstanding this section, would have existed for the wages from the other related corporations, reduced by an allocable portion of any contributions previously paid by the common paymaster for those wages.

(13) The following are ~~employment is~~ exempt from coverage under this chapter:

(a) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in subsection (6).

(b) Service performed on or in connection with a vessel or aircraft that is not an American vessel or American aircraft, if the employee is employed on and in connection with the vessel or aircraft while the vessel or aircraft is outside the United States.

(c) Service performed by an individual engaged in, or as an officer or member of the crew of a vessel engaged in, the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed by an individual as an ordinary incident to engaging in those activities, except:

1. Service performed in connection with the catching or taking of salmon or halibut for commercial purposes.

2. Service performed on, or in connection with, a vessel of more than 10 net tons, determined in the manner provided for determining the registered tonnage of merchant vessels under the laws of the United States.

(d) Service performed by an individual in the employ of his or her son, daughter, or spouse, including step relationships, and service performed by a child, or stepchild, under the age of 21 in the employ of his or her father, mother, stepfather, or stepmother.

(e) Service performed in the employ of the Federal Government or of an instrumentality of the Federal Government which is:

1. Wholly or partially owned by the United States.

2. Exempt from the tax imposed by s. 3301 of the Internal Revenue Code under a federal law that specifically cites s. 3301, or the corresponding

section of prior law, in granting the exemption. However, to the extent that the United States Congress permits the state to require an instrumentality of the Federal Government to make payments into the Unemployment Compensation Trust Fund under this chapter, this chapter applies to that instrumentality, and to services performed for that instrumentality, in the same manner, to the same extent, and on the same terms as other employers, employing units, individuals, and services. If this state is not certified for any year by the Secretary of Labor under s. 3304 of the federal Internal Revenue Code, the tax collection service provider shall refund the payments required of each instrumentality of the Federal Government for that year from the fund in the same manner and within the same period as provided in s. 443.141(6) for contributions erroneously collected.

(f) Service performed in the employ of a public employer as defined in s. 443.036, except as provided in subsection (2), and service performed in the employ of an instrumentality of a public employer as described in s. 443.036(35)(b) or (c), to the extent that the instrumentality is immune under the United States Constitution from the tax imposed by s. 3301 of the Internal Revenue Code for that service.

(g) Service performed in the employ of a corporation, community chest, fund, or foundation that is organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes or for the prevention of cruelty to children or animals. This exemption does not apply to an employer if part of the employer's net earnings inures to the benefit of any private shareholder or individual or if a substantial part of the employer's activities involve carrying on propaganda, otherwise attempting to influence legislation, or participating or intervening in, including the publishing or distributing of statements, a political campaign on behalf of a candidate for public office, except as provided in subsection (3).

(h) Service for which unemployment compensation is payable under an unemployment compensation system established by the United States Congress, of which this chapter is not a part.

(i)1. Service performed during a calendar quarter in the employ of an organization exempt from the federal income tax under s. 501(a) of the Internal Revenue Code, other than an organization described in s. 401(a), or under s. 521, if the remuneration for the service is less than $50.

2. Service performed in the employ of a school, college, or university, if the service is performed by a student who is enrolled and is regularly attending classes at the school, college, or university.

(j) Service performed in the employ of a foreign government, including service as a consular or other officer or employee of a nondiplomatic representative.

(k) Service performed in the employ of an instrumentality wholly owned by a foreign government if:

1. The service is of a character similar to that performed in foreign countries by employees of the Federal Government or of an instrumentality of the Federal Government; and

2. The United States Secretary of State certifies to the United States Secretary of the Treasury that the foreign government for whose instrumentality the exemption is claimed grants an equivalent exemption for similar service performed in the foreign country by employees of the Federal Government and of instrumentalities of the Federal Government.

(l) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved under state law, service performed as an intern in the employ of a hospital by an individual who has completed a 4-year course in a medical school chartered or approved under state law, and service performed by a patient of a hospital for the hospital.

(m) Service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all of the service performed by the individual for that person is performed for remuneration solely by way of commission, except for services performed in accordance with 26 U.S.C. s. 3306(c)(7) and (8). For purposes of this section, those benefits excluded from the wages subject to this chapter under s. 443.1217(2)(b)-(f), inclusive, are not considered remuneration.

(n) Service performed by an individual for a person as a real estate salesperson or agent, if all of the service performed by the individual for that person is performed for remuneration solely by way of commission.

(o) Service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, excluding delivery or distribution to any point for subsequent delivery or distribution.

(p) Service covered by an arrangement between the Agency for Workforce Innovation, or its tax collection service provider, and the agency charged with the administration of another state or federal unemployment compensation law under which all services performed by an individual for an employing unit during the period covered by the employing unit's duly approved election is deemed to be performed entirely within the other agency's state or under the federal law.

(q) Service performed by an individual enrolled at a nonprofit or public educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, if the institution certifies to the employer that the individual is a student in a full-time program, taken for credit at the institution that combines academic instruction with work experience, and that the service is an integral part of the program. This paragraph does not apply to service performed in a program established for or on behalf of an employer or group of employers.

(r) Service performed by an individual for a person as a barber, if all of the service performed by the individual for that person is performed for remuneration solely by way of commission.

(s) Casual labor not in the course of the employer's trade or business.

(t) Service performed by a speech therapist, occupational therapist, or physical therapist who is nonsalaried and working under a written contract with a home health agency as defined in s. 400.462.

(u) Service performed by a direct seller. As used in this paragraph, the term "direct seller" means a person:

1.a. Who is engaged in the trade or business of selling or soliciting the sale of consumer products to buyers on a buy-sell basis, on a deposit-commission basis, or on a similar basis, for resale in the home or in another place that is not a permanent retail establishment; or

b. Who is engaged in the trade or business of selling or soliciting the sale of consumer products in the home or in another place that is not a permanent retail establishment;

2. Substantially all of whose remuneration for services described in subparagraph 1., regardless of whether paid in cash, is directly related to sales or other output, rather than to the number of hours worked; and

3. Who performs the services under a written contract with the person for whom the services are performed, if the contract provides that the person will not be treated as an employee for those services for federal tax purposes.

(v) Service performed by a nonresident alien for the period he or she is temporarily present in the United States as a nonimmigrant under subparagraph (F) or subparagraph (J) of s. 101(a)(15) of the Immigration and Nationality Act, and which is performed to carry out the purpose specified in subparagraph (F) or subparagraph (J), as applicable.

(w) Service performed by an individual for remuneration for a private, for-profit delivery or messenger service, if the individual:

1. Is free to accept or reject jobs from the delivery or messenger service and the delivery or messenger service does not have control over when the individual works;

2. Is remunerated for each delivery, or the remuneration is based on factors that relate to the work performed, including receipt of a percentage of any rate schedule;

3. Pays all expenses, and the opportunity for profit or loss rests solely with the individual;

4. Is responsible for operating costs, including fuel, repairs, supplies, and motor vehicle insurance;

5. Determines the method of performing the service, including selection of routes and order of deliveries;

6. Is responsible for the completion of a specific job and is liable for any failure to complete that job;

7. Enters into a contract with the delivery or messenger service which specifies that the individual is an independent contractor and not an employee of the delivery or messenger service; and

8. Provides the vehicle used to perform the service.

(x) Service performed in agricultural labor by an individual who is an alien admitted to the United States to perform service in agricultural labor under ss. 101(a)(15)(H) and 214(c) of the Immigration and Nationality Act.

(y) Service performed by a person who is an inmate of a penal institution.

Section 5. Subsection (2) of section 443.1217, Florida Statutes, is amended to read:

443.1217 Wages.—

(2) For the purpose of determining an employer's contributions, the following wages are exempt from this chapter:

(a) That part of remuneration paid to an individual by an employer for employment during a calendar year in excess of the first $7,000 of remuneration paid to the individual by the employer or his or her predecessor during that calendar year, unless that part of the remuneration is subject to a tax, under a federal law imposing the tax, against which credit may be taken for contributions required to be paid into a state unemployment fund. As used in this section only, the term "employment" includes services constituting employment under any employment security law of another state or of the Federal Government.

(b) Payment by an employing unit with respect to services performed for, or on behalf of, an individual employed by the employing unit under a plan or system established by the employing unit which provides for payment to its employees generally or to a class of its employees, including any amount paid by the employing unit for insurance or annuities or paid into a fund on account of:

1. Sickness or accident disability. When payment is made to an employee or any of his or her dependents, this subparagraph exempts from the wages subject to this chapter only those payments received under a workers' compensation law.

2. Medical and hospitalization expenses in connection with sickness or accident disability.

3. Death, if the employee:

a. Does not have the option to receive, in lieu of the death benefit, part of the payment or, if the death benefit is insured, part of the premiums or contributions to premiums paid by his or her employing unit; and

b. Does not have the right under the plan, system, or policy providing the death benefit to assign the benefit or to receive cash consideration in lieu of the benefit upon his or her withdrawal from the plan or system; upon

termination of the plan, system, or policy; or upon termination of his or her services with the employing unit.

(c) Payment on account of sickness or accident disability, or payment of medical or hospitalization expenses in connection with sickness or accident disability, by an employing unit to, or on behalf of, an individual performing services for the employing unit more than 6 calendar months after the last calendar month the individual performed services for the employing unit.

(d) Payment by an employing unit, without deduction from the remuneration of an individual employed by the employing unit, of the tax imposed upon the individual under s. 3101 of the federal Internal Revenue Code for services performed.

(e) The value of:

1. Meals furnished to an employee or the employee's spouse or dependents by the employer on the business premises of the employer for the convenience of the employer; or

2. Lodging furnished to an employee or the employee's spouse or dependents by the employer on the business premises of the employer for the convenience of the employer when lodging is included as a condition of employment.

(f) Payment made by an employing unit to, or on behalf of, an individual performing services for the employing unit or a beneficiary of the individual:

1. From or to a trust described in s. 401(a) of the Internal Revenue Code of 1954 which is exempt from tax under s. 501(a) at the time of payment, unless payment is made to an employee of the trust as remuneration for services rendered as an employee of the trust and not as a beneficiary of the trust;

2. Under or to an annuity plan that, at the time of payment, is a plan described in s. 403(a) of the Internal Revenue Code of 1954;

3. Under a simplified employee pension if, at the time of payment, it is reasonable to believe that the employee is entitled to a deduction under s. 219(b)(2) of the Internal Revenue Code of 1954 for the payment;

4. Under or to an annuity contract described in s. 403(b) of the Internal Revenue Code of 1954, other than a payment for the purchase of an annuity contract as part of a salary reduction agreement, regardless of whether the agreement is evidenced by a written instrument or otherwise;

5. Under or to an exempt governmental deferred compensation plan described in s. 3121(v)(3) of the Internal Revenue Code of 1954;

6. To supplement pension benefits under a plan or trust described in subparagraphs 1.-5. to account for some portion or all of the increase in the cost of living, as determined by the United States Secretary of Labor, since retirement, but only if the supplemental payments are under a plan that is

treated as a welfare plan under s. 3(2)(B)(ii) of the Employee Retirement Income Security Act of 1974; or

7. Under a cafeteria plan, as defined in s. 125 of the Internal Revenue Code of 1986, as amended, if the payment would not be treated as wages without regard to such plan and it is reasonable to believe that, if s. 125 of the Internal Revenue Code of 1986, as amended, applied for purposes of this section, s. 125 of the Internal Revenue Code of 1986, as amended, would not treat any wages as constructively received.

(g) Payment made, or benefit provided, by an employing unit to or for the benefit of an individual performing services for the employing unit or a beneficiary of the individual if, at the time of such payment or provision of the benefit, it is reasonable to believe that the individual may exclude the payment or benefit from income under s. 127 of the Internal Revenue Code of 1986, as amended.

Section 6. Paragraphs (e) through (j) of subsection (3) of section 443.131, Florida Statutes, are amended to read:

443.131 Contributions.—

(3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT EXPERIENCE.—

(e) Assignment of variations from the standard rate.—

1. The tax collection service provider shall assign a variation from the standard rate of contributions for each calendar year to each eligible employer. In determining the contribution rate, varying from the standard rate to be assigned each employer, adjustment factors computed under sub-subparagraphs a.-c. shall be added to the benefit ratio. This addition shall be accomplished in two steps by adding a variable adjustment factor and a final adjustment factor. The sum of these adjustment factors computed under sub-subparagraphs a.-c. shall first be algebraically summed. The sum of these adjustment factors shall next be divided by a gross benefit ratio determined as follows: Total benefit payments for the 3-year period described in subparagraph (b)2. shall be charged to employers eligible for a variation from the standard rate, minus excess payments for the same period, divided by taxable payroll entering into the computation of individual benefit ratios for the calendar year for which the contribution rate is being computed. The ratio of the sum of the adjustment factors computed under sub-subparagraphs a.-c. to the gross benefit ratio shall be multiplied by each individual benefit ratio that is less than the maximum contribution rate to obtain variable adjustment factors; except that in any instance in which the sum of an employer's individual benefit ratio and variable adjustment factor exceeds the maximum contribution rate, the variable adjustment factor shall be reduced in order that the sum equals the maximum contribution rate. The variable adjustment factor for each of these employers is multiplied by his or her taxable payroll entering into the computation of his or her benefit ratio. The sum of these products shall be divided by the taxable payroll of the employers who entered into the computation of their benefit ratios. The resulting ratio shall be subtracted from the sum of the

adjustment factors computed under sub-subparagraphs a.-c. to obtain the final adjustment factor. The variable adjustment factors and the final adjustment factor shall be computed to five decimal places and rounded to the fourth decimal place. This final adjustment factor shall be added to the variable adjustment factor and benefit ratio of each employer to obtain each employer's contribution rate. An employer's contribution rate may not, however, be rounded to less than 0.1 percent.

a. An adjustment factor for noncharge benefits shall be computed to the fifth decimal place and rounded to the fourth decimal place by dividing the amount of noncharge benefits during the 3-year period described in subparagraph (b)2. by the taxable payroll of employers eligible for a variation from the standard rate who have a benefit ratio for the current year which is less than the maximum contribution rate. For purposes of computing this adjustment factor, the taxable payroll of these employers is the taxable payrolls for the 3 years ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of the same calendar year. As used in this sub-subparagraph, the term "noncharge benefits" means benefits paid to an individual from the Unemployment Compensation Trust Fund, but which were not charged to the employment record of any employer.

b. An adjustment factor for excess payments shall be computed to the fifth decimal place, and rounded to the fourth decimal place by dividing the total excess payments during the 3-year period described in subparagraph (b)2. by the taxable payroll of employers eligible for a variation from the standard rate who have a benefit ratio for the current year which is less than the maximum contribution rate. For purposes of computing this adjustment factor, the taxable payroll of these employers is the same figure used to compute the adjustment factor for noncharge benefits under sub-subparagraph a. As used in this sub-subparagraph, the term "excess payments" means the amount of benefits charged to the employment record of an employer during the 3-year period described in subparagraph (b)2., less the product of the maximum contribution rate and the employer's taxable payroll for the 3 years ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of the same calendar year. As used in this sub-subparagraph, the term "total excess payments" means the sum of the individual employer excess payments for those employers <u>that were</u> eligible <u>to be considered</u> for <u>assignment of a contribution rate different from</u> ~~a variation from~~ the standard rate.

c. If the balance of the Unemployment Compensation Trust Fund on June 30 of the calendar year immediately preceding the calendar year for which the contribution rate is being computed is less than 3.7 percent of the taxable payrolls for the year ending June 30 as reported to the tax collection service provider by September 30 of that calendar year, a positive adjustment factor shall be computed. The positive adjustment factor shall be computed annually to the fifth decimal place and rounded to the fourth decimal place by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year into a sum equal to one-fourth of the difference between the balance of the fund as of June 30

of that calendar year and the sum of 4.7 percent of the total taxable payrolls for that year. The positive adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the effective date of the contribution rate equals or exceeds 3.7 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year. If the balance of the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the calendar year for which the contribution rate is being computed exceeds 4.7 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year, a negative adjustment factor shall be computed. The negative adjustment factor shall be computed annually to the fifth decimal place and rounded to the fourth decimal place by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of the calendar year into a sum equal to one-fourth of the difference between the balance of the fund as of June 30 of the current calendar year and 4.7 percent of the total taxable payrolls of that year. The negative adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the effective date of the contribution rate is less than 4.7 percent, but more than 3.7 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year.

d. The maximum contribution rate that may be assigned to an employer is 5.4 percent, except employers participating in an approved short-time compensation plan may be assigned a maximum contribution rate that is 1 percent greater than the maximum contribution rate for other employers in any calendar year in which short-time compensation benefits are charged to the employer's employment record.

2. If the transfer of an employer's employment record to an employing unit under paragraph (f) which, before the transfer, was an employer, the tax collection service provider shall recompute a benefit ratio for the successor employer based on the combined employment records and reassign an appropriate contribution rate to the successor employer effective on the first day of the calendar quarter immediately after the effective date of the transfer.

(f) Transfer of employment records.—

1. For the purposes of this subsection, two or more employers who are parties to a transfer of business or the subject of a merger, consolidation, or other form of reorganization, effecting a change in legal identity or form, are deemed a single employer and are considered to be one employer with a continuous employment record if the tax collection service provider finds that the successor employer continues to carry on the employing enterprises of all of the predecessor employers and that the successor employer has paid all contributions required of and due from all of the predecessor employers and has assumed liability for all contributions that may become due from

all of the predecessor employers. In addition, an employer may not be considered a successor under this subparagraph if the employer purchases a company with a lower rate into which employees with job functions unrelated to the business endeavors of the predecessor are transferred for the purpose of acquiring the low rate and avoiding payment of contributions. As used in this paragraph, notwithstanding s. 443.036(14), the term "contributions" means all indebtedness to the tax collection service provider, including, but not limited to, interest, penalty, collection fee, and service fee. A successor employer must accept the transfer of all of the predecessor employers' employment records within 30 days after the date of the official notification of liability by succession. If a predecessor employer has unpaid contributions or outstanding quarterly reports, the successor employer must pay the total amount with certified funds within 30 days after the date of the notice listing the total amount due. After the total indebtedness is paid, the tax collection service provider shall transfer the employment records of all of the predecessor employers to the successor employer's employment record. The tax collection service provider shall determine the contribution rate of the combined successor and predecessor employers upon the transfer of the employment records, as prescribed by rule, in order to calculate any change in the contribution rate resulting from the transfer of the employment records.

2. Regardless of whether a predecessor employer's employment record is transferred to a successor employer under this paragraph, the tax collection service provider shall treat the predecessor employer, if he or she subsequently employs individuals, as an employer without a previous employment record or, if his or her coverage is terminated under s. 443.121, as a new employing unit.

3. The state agency providing unemployment tax collection services may adopt rules governing the partial transfer of experience rating when an employer transfers an identifiable and segregable portion of his or her payrolls and business to a successor employing unit. As a condition of each partial transfer, these rules must require the following to be filed with the tax collection service provider: an application by the successor employing unit, an agreement by the predecessor employer, and the evidence required by the tax collection service provider to show the benefit experience and payrolls attributable to the transferred portion through the date of the transfer. These rules must provide that the successor employing unit, if not an employer subject to this chapter, becomes an employer as of the date of the transfer and that the transferred portion of the predecessor employer's employment record is removed from the employment record of the predecessor employer. For each calendar year after the date of the transfer of the employment record in the records of the tax collection service provider, the service provider shall compute the contribution rate payable by the successor employer or employing unit based on his or her employment record, combined with the transferred portion of the predecessor employer's employment record. These rules may also prescribe what contribution rates are payable by the predecessor and successor employers for the period between the date of the transfer of the transferred portion of the predecessor employer's employment record in the records of the tax collection service provider and the first day of the next calendar year.

4. This paragraph does not apply to an employee leasing company and client contractual agreement as defined in s. 443.036. The tax collection service provider shall, if the contractual agreement is terminated or the employee leasing company fails to submit reports or pay contributions as required by the service provider, treat the client as a new employer without previous employment record unless the client is otherwise eligible for a variation from the standard rate.

(g) Transfer of unemployment experience upon transfer or acquisition of a business.—Notwithstanding any other provision of law, the following shall apply regarding assignment of rates and transfers of experience:

1.a. If an employer transfers its trade or business, or a portion thereof, to another employer and, at the time of the transfer, there is any common ownership, management, or control of the two employers, then the unemployment experience attributable to the transferred trade or business shall be transferred to the employer to whom such business is so transferred. The rates of both employers shall be recalculated and made effective as of the beginning of the calendar quarter immediately following the date of the transfer of trade or business unless the transfer occurred on the first day of a calendar quarter in which case the rate shall be recalculated as of that date.

b. If, following a transfer of experience under sub-subparagraph a., the Agency for Workforce Innovation or the tax collection service provider determines that a substantial purpose of the transfer of trade or business was to obtain a reduced liability for contributions, then the experience rating account of the employers involved shall be combined into a single account and a single rate assigned to such account.

2. Whenever a person who is not an employer under this chapter at the time it acquires the trade or business of an employer, the unemployment experience of the acquired business shall not be transferred to such person if the Agency for Workforce Innovation or the tax collection service provider finds that such person acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, such person shall be assigned the new employer rate under paragraph (2)(a). In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the tax collection service provider shall consider, but not be limited to, the following factors:

a. Whether the person continued the business enterprise of the acquired business;

b. How long such business enterprise was continued; or

c. Whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

3. If a person knowingly violates or attempts to violate subparagraphs 1. or 2. or any other provision of this chapter related to determining the assignment of a contribution rate, or if a person knowingly advises another

person to violate the law, the person shall be subject to the following penalties:

a. If the person is an employer, then such employer shall be assigned the highest rate assignable under this chapter for the rate year during which such violation or attempted violation occurred and the 3 rate years immediately following this rate year. However, if the person's business is already at such highest rate for any year, or if the amount of increase in the person's rate would be less than 2 percent for such year, then a penalty rate of contributions of 2 percent of taxable wages shall be imposed for such year and the following 3 rate years.

b. If the person is not an employer, such person shall be subject to a civil money penalty of not more than $5,000. The procedures for the assessment of a penalty shall be in accordance with the procedures set forth in s. 443.141(2), and the provisions of s. 443.141(3) shall apply to the collection of the penalty. Any such penalty shall be deposited in the penalty and interest account established under s. 443.211(2).

4. For purposes of subparagraph 3., the term:

a. "Knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved.

b. "Violates or attempts to violate" includes, but is not limited to, intent to evade, misrepresentation, or willful nondisclosure.

5. In addition to the penalty imposed by subparagraph 3., any person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

6. The Agency for Workforce Innovation and the tax collection service provider shall establish procedures to identify the transfer or acquisition of a business for purposes of this paragraph and shall adopt any rules necessary to administer this paragraph.

7. For purposes of this paragraph:

a. "Person" has the meaning given such term by s. 7701(a)(1) of the Internal Revenue Code of 1986.

b. "Trade or business" shall include the employer's workforce.

8. This paragraph shall be interpreted and applied in such manner as to meet the minimum requirements contained in any guidance or regulations issued by the United States Department of Labor.

(h)~~(g)~~ Additional conditions for variation from the standard rate.—An employer's contribution rate may not be reduced below the standard rate under this section unless:

1. All contributions, reimbursements, interest, and penalties incurred by the employer for wages paid by him or her in all previous calendar quarters,

except the 4 calendar quarters immediately preceding the calendar quarter or calendar year for which the benefit ratio is computed, are paid; and

2. The employer entitled to a rate reduction must have at least one annual payroll as defined in subparagraph (b)1. unless the employer is eligible for additional credit under the Federal Unemployment Tax Act. If the Federal Unemployment Tax Act is amended or repealed in a manner affecting credit under the federal act, this section applies only to the extent that additional credit is allowed against the payment of the tax imposed by the Federal Unemployment Tax Act.

The tax collection service provider shall assign an earned contribution rate to an employer under subparagraph 1. the quarter immediately after the quarter in which all contributions, reimbursements, interest, and penalties are paid in full.

(i)~~(h)~~ Notice of determinations of contribution rates; redeterminations.—The state agency providing tax collection services:

1. Shall promptly notify each employer of his or her contribution rate as determined for any calendar year under this section. The determination is conclusive and binding on the employer unless within 20 days after mailing the notice of determination to the employer's last known address, or, in the absence of mailing, within 20 days after delivery of the notice, the employer files an application for review and redetermination setting forth the grounds for review. An employer may not, in any proceeding involving his or her contribution rate or liability for contributions, contest the chargeability to his or her employment record of any benefits paid in accordance with a determination, redetermination, or decision under s. 443.151, except on the ground that the benefits charged were not based on services performed in employment for him or her and then only if the employer was not a party to the determination, redetermination, or decision, or to any other proceeding under this chapter, in which the character of those services was determined.

2. Shall, upon discovery of an error in computation, reconsider any prior determination or redetermination of a contribution rate after the 20-day period has expired and issue a revised notice of contribution rate as redetermined. A redetermination is subject to review, and is conclusive and binding if review is not sought, in the same manner as review of a determination under subparagraph 1. A reconsideration may not be made after March 31 of the calendar year immediately after the calendar year for which the contribution rate is applicable, and interest may not accrue on any additional contributions found to be due until 30 days after the employer is mailed notice of his or her revised contribution rate.

3. May adopt rules providing for periodic notification to employers of benefits paid and charged to their employment records or of the status of those employment records. A notification, unless an application for redetermination is filed in the manner and within the time limits prescribed by the Agency for Workforce Innovation, is conclusive and binding on the employer under this chapter. The redetermination, and the Agency for Workforce

Innovation's finding of fact in connection with the redetermination, may be introduced in any subsequent administrative or judicial proceeding involving the determination of the contribution rate of an employer for any calendar year. A redetermination becomes final in the same manner provided in this subsection for findings of fact made by the Agency for Workforce Innovation in proceedings to redetermine the contribution rate of an employer. Pending a redetermination or an administrative or judicial proceeding, the employer must file reports and pay contributions in accordance with this section.

(j)~~(i)~~ Employment records of employers entering the armed forces.—

1. If the tax collection service provider finds that an employer's business is closed solely because of the entrance of one or more of the owners, officers, partners, or the majority stockholder into the Armed Forces of the United States, or any of its allies, or of the United Nations, the employer's employment record may not be terminated. If the business is resumed within 2 years after the discharge or release from active duty in the armed forces of that person or persons, the employer's benefit experience is deemed to have been continuous throughout that period. The benefit ratio of the employer for the calendar year in which he or she resumed business and the 3 calendar years immediately after resuming business is a percentage equal to the total of his or her benefit charges, including charges of benefits paid to any individual during the period the employer was in the armed forces based on wages paid by him or her before the employer's entrance into the armed forces for the 3 most recently completed calendar years divided by that part of his or her total payroll, for which contributions were paid to the tax collection service provider, for the 3 most recent calendar years during the whole of which, respectively, the employer was in business.

2. A refund made under this paragraph shall be made in accordance with s. 443.141(6).

(k)~~(j)~~ Applicability to contributing employers.—This subsection applies only to contributing employers.

Section 7. Paragraph (b) of subsection (4) and paragraph (b) of subsection (6) of section 443.151, Florida Statutes, are amended to read:

443.151 Procedure concerning claims.—

(4) APPEALS.—

(b) Filing and hearing.—

1. The claimant or any other party entitled to notice of a determination may appeal an adverse determination to an appeals referee within 20 days after the date of mailing of the notice to her or his last known address or, if the notice is not mailed, within 20 days after the date of delivery of the notice.

2. Unless the appeal is untimely or withdrawn or review is initiated by the commission, the appeals referee, after mailing all parties and attorneys

of record a notice of hearing at least 10 days before the date of hearing, notwithstanding the 14-day notice requirement in s. 120.569(2)(b), may only affirm, modify, or reverse the determination. An appeal may not be withdrawn without the permission of the appeals referee.

3. However, when an appeal appears to have been filed after the permissible time limit, the Office of Appeals may issue an order to show cause to the appellant, requiring the appellant to show why the appeal should not be dismissed as untimely. If the appellant does not, within 15 days after the mailing date of the order to show cause, provide written evidence of timely filing or good cause for failure to appeal timely, the appeal shall be dismissed.

4.~~3.~~ When an appeal involves a question of whether services were performed by a claimant in employment or for an employer, the referee must give special notice of the question and of the pendency of the appeal to the employing unit and to the Agency for Workforce Innovation, both of which become parties to the proceeding.

5.~~4.~~ The parties must be notified promptly of the referee's decision. The referee's decision is final unless further review is initiated under paragraph (c) within 20 days after the date of mailing notice of the decision to the party's last known address or, in lieu of mailing, within 20 days after the delivery of the notice.

(6) RECOVERY AND RECOUPMENT.—

(b) Any person who, by reason other than her or his fraud, receives benefits under this chapter to which, under a redetermination or decision pursuant to this section, she or he is found not entitled, is liable to repay those benefits to the Agency for Workforce Innovation on behalf of the trust fund or, in the agency's discretion, to have those benefits deducted from any future benefits payable to her or him under this chapter. Any recovery or recoupment of benefits must be effected within 3 ~~2~~ years after the redetermination or decision.

Section 8. 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 443.071(4), relating to creation of a fictitious employer scheme to commit unemployment compensation fraud.

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

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

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

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

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

12.~~11.~~ Chapter 550, relating to jai alai frontons.

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

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

15.~~14.~~ Chapter 562, relating to beverage law enforcement.

16.~~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.

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

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

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

20.~~19.~~ Chapter 782, relating to homicide.

21.~~20.~~ Chapter 784, relating to assault and battery.

22.~~21.~~ Chapter 787, relating to kidnapping.

23.~~22.~~ Chapter 790, relating to weapons and firearms.

24.~~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.

25.~~24.~~ Chapter 806, relating to arson.

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

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

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

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

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

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

32.~~31.~~ Chapter 831, relating to forgery and counterfeiting.

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

34.~~33.~~ Section 836.05, relating to extortion.

35.~~34.~~ Chapter 837, relating to perjury.

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

37.~~36.~~ Chapter 843, relating to obstruction of justice.

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

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

40.~~39.~~ Chapter 874, relating to criminal street gangs.

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

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

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

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

Section 9. For the purpose of incorporating the amendment to section 895.02, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 16.56, Florida Statutes, is reenacted to read:

16.56 Office of Statewide Prosecution.—

(1) There is created in the Department of Legal Affairs an Office of Statewide Prosecution. The office shall be a separate "budget entity" as that term is defined in chapter 216. The office may:

(a) Investigate and prosecute the offenses of:

1. Bribery, burglary, criminal usury, extortion, gambling, kidnapping, larceny, murder, prostitution, perjury, robbery, carjacking, and home-invasion robbery;

2. Any crime involving narcotic or other dangerous drugs;

3. Any violation of the provisions of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act, including any offense listed in the definition of racketeering activity in s. 895.02(1)(a), providing such listed offense is investigated in connection with a violation of s. 895.03 and is charged in a separate count of an information or indictment containing a count charging a violation of s. 895.03, the prosecution of which listed offense may continue independently if the prosecution of the violation of s. 895.03 is terminated for any reason;

4. Any violation of the provisions of the Florida Anti-Fencing Act;

5. Any violation of the provisions of the Florida Antitrust Act of 1980, as amended;

6. Any crime involving, or resulting in, fraud or deceit upon any person;

7. Any violation of s. 847.0135, relating to computer pornography and child exploitation prevention, or any offense related to a violation of s. 847.0135;

8. Any violation of the provisions of chapter 815;

9. Any criminal violation of part I of chapter 499;

10. Any violation of the provisions of the Florida Motor Fuel Tax Relief Act of 2004; or

11. Any criminal violation of s. 409.920 or s. 409.9201;

or any attempt, solicitation, or conspiracy to commit any of the crimes specifically enumerated above. The office shall have such power only when any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction, or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits.

Section 10. For the purpose of incorporating the amendment to section 895.02, Florida Statutes, in a reference thereto, paragraph (g) of subsection (3) of section 655.50, Florida Statutes, is reenacted to read:

655.50 Florida Control of Money Laundering in Financial Institutions Act; reports of transactions involving currency or monetary instruments; when required; purpose; definitions; penalties.—

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

(g) "Specified unlawful activity" means any "racketeering activity" as defined in s. 895.02.

Section 11. For the purpose of incorporating the amendment to section 895.02, Florida Statutes, in a reference thereto, paragraph (g) of subsection (2) of section 896.101, Florida Statutes, is reenacted to read:

896.101 Florida Money Laundering Act; definitions; penalties; injunctions; seizure warrants; immunity.—

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

(g) "Specified unlawful activity" means any "racketeering activity" as defined in s. 895.02.

Section 12. For the purpose of incorporating the amendment to section 895.02, Florida Statutes, in a reference thereto, subsection (3) of section 905.34, Florida Statutes, is reenacted to read:

905.34 Powers and duties; law applicable.—The jurisdiction of a statewide grand jury impaneled under this chapter shall extend throughout the state. The subject matter jurisdiction of the statewide grand jury shall be limited to the offenses of:

(3) Any violation of the provisions of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act, including any offense listed in the definition of racketeering activity in s. 895.02(1)(a), providing such listed offense is investigated in connection with a violation of s. 895.03 and is charged in a separate count of an information or indictment containing a count charging a violation of s. 895.03, the prosecution of which listed offense may continue independently if the prosecution of the violation of s. 895.03 is terminated for any reason;

or any attempt, solicitation, or conspiracy to commit any violation of the crimes specifically enumerated above, when any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits. The statewide grand jury may return indictments and presentments irrespective of the county or judicial circuit where the offense is committed or triable. If an indictment is returned, it shall be certified and transferred for trial to the county where the offense was committed. The powers and duties of, and law applicable to, county grand juries shall apply to a statewide grand jury except when such powers, duties, and law are inconsistent with the provisions of ss. 905.31-905.40.

Section 13. This act shall take effect July 1, 2005.

Approved by the Governor June 10, 2005.

Filed in Office Secretary of State June 10, 2005.