

Senate Bill No. 1338

An act relating to the Florida Statutes; repealing ss. 20.19(5)(b)2., 20.3315(3), 27.005, 27.006, 27.271, 27.33, 27.3455, 27.36, 27.385, 27.605, 29.002, 29.003, 29.009, 29.011, 43.28, 50.071, 57.091, 166.411(11), 196.1994, 202.27(7), 213.131(2), 216.181(17), 216.292(5)(f), 218.325, 220.191(1)(h)2., 252.373(1)(b) and (c), 259.105(21), 288.9511, 288.9515, 288.9517, 339.08(4), 339.082(3), 372.127(3), 372.561(9), 376.875(6), 381.79(7), 456.0375, 601.15(3)(f), 723.06115(3), 914.06, 925.035, 925.036, 925.037, 932.7055(5)(d), 939.05, 939.07, 939.10, 939.15, 985.4075(2), 1004.225, and 1010.87(3), F.S., all of which provisions have become inoperative by noncurrent repeal or expiration and, pursuant to s. 11.242(5)(b) and (i), may be omitted from the 2005 Florida Statutes only through a reviser's bill duly enacted by the Legislature; amending s. 378.035, F.S., to delete obsolete material and repeal a provision that has become inoperative by noncurrent expiration and, pursuant to s. 11.242(5)(b) and (i), may be omitted from the 2005 Florida Statutes only through a reviser's bill duly enacted by the Legislature; repealing s. 383.410, F.S., to confirm the October 2, 2004, repeal of an exemption in accordance with the Open Government Sunset Review Act of 1995; amending s. 202.35(3), F.S., to conform to the repeal of s. 202.27(7), F.S.; and amending s. 627.732(1)(a), F.S., to conform to the repeal of s. 456.0375, F.S.

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

Section 1. Subparagraph 2. of paragraph (b) of subsection (5) of section 20.19, Florida Statutes, as amended by section 12 of chapter 2004-269, Laws of Florida, is repealed.

Reviser's note.—The cited subparagraph, which relates to transfer authority for the 2003-2004 fiscal year only, as to funds for service districts within the Department of Children and Family Services, expired pursuant to its own terms, effective July 1, 2004.

Section 2. Subsection (3) of section 20.3315, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to termination of the Florida Forever Program Trust Fund of the Florida Fish and Wildlife Conservation Commission, was repealed pursuant to s. 2, ch. 2001-25, Laws of Florida, effective July 1, 2004. Since the subsection was not repealed by a "current session" of the Legislature, it may be omitted from the 2005 Florida Statutes only through a reviser's bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 3. Sections 27.005, 27.006, 27.271, 27.33, 27.3455, 27.36, 27.385, 27.605, 29.002, 29.003, 29.009, 29.011, 43.28, 50.071, 57.091, 218.325, 914.06, 925.035, 925.036, 925.037, 939.05, 939.07, 939.10, and 939.15, Florida Statutes, are repealed.

Reviser's note.—The cited sections, which relate to the court system and related funding, were repealed by s. 153, ch. 2003-402, Laws of Florida, effective July 1, 2004. Since the sections were not repealed by a “current session” of the Legislature, they may be omitted from the 2005 Florida Statutes only through a reviser's bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 4. Subsection (11) of section 166.411, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to use of the eminent domain power to obtain lands to be conveyed by a municipality to the county school board, was repealed pursuant to s. 2, ch. 2001-77, Laws of Florida, effective January 1, 2004. Since the subsection was not repealed by a “current session” of the Legislature, it may be omitted from the 2005 Florida Statutes only through a reviser's bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 5. Section 196.1994, Florida Statutes, is repealed.

Reviser's note.—The cited section, which relates to a property tax exemption for space laboratories and carriers, expired pursuant to its own terms, effective July 1, 2004.

Section 6. Subsection (7) of section 202.27, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to material error in reporting of local communications services taxes, was repealed pursuant to s. 6, ch. 2003-254, Laws of Florida, effective June 30, 2004. Since the subsection was not repealed by a “current session” of the Legislature, it may be omitted from the 2005 Florida Statutes only through a reviser's bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 7. Subsection (2) of section 213.131, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to termination of the Department of Revenue Clerks of the Court Trust Fund, was repealed by s. 2, ch. 2003-243, Laws of Florida, effective November 4, 2004. Since the subsection was not repealed by a “current session” of the Legislature, it may be omitted from the 2005 Florida Statutes only through a reviser's bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 8. Subsection (17) of section 216.181, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to positions and associated budget transfers by the Department of Law Enforcement for the 2003-2004 fiscal year only, expired pursuant to its own terms, effective July 1, 2004.

Section 9. Paragraph (f) of subsection (5) of section 216.292, Florida Statutes, is repealed.

Reviser's note.—The cited paragraph, which relates to authorization for the Governor to approve the initiation of certain fixed capital outlay projects within the Department of Corrections for specified purposes, expired pursuant to its own terms, effective March 8, 2004.

Section 10. Subparagraph 2. of paragraph (h) of subsection (1) of section 220.191, Florida Statutes, as reenacted by section 17 of chapter 2004-5, Laws of Florida, is repealed.

Reviser's note.—The cited subparagraph, which relates to certain new financial facilities qualifying as “qualifying projects” for purposes of the capital investment tax credit, expired pursuant to its own terms, effective June 30, 2004.

Section 11. Paragraphs (b) and (c) of subsection (1) of section 252.373, Florida Statutes, as amended by section 4 of chapter 2004-235, Laws of Florida, and section 48 of chapter 2004-269, Laws of Florida, are repealed.

Reviser's note.—The cited paragraphs, which relate to use of the Emergency Management, Preparedness, and Assistance Trust Fund for fiscal year 2003-2004 only, and a review and transfer of funds within that trust fund, expired pursuant to their own terms, effective July 1, 2004.

Section 12. Subsection (21) of section 259.105, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to distribution of funds to water management districts for specified purposes for the 2003-2004 fiscal year only, expired pursuant to its own terms, effective July 1, 2004.

Section 13. Section 288.9511, Florida Statutes, as amended by section 23 of chapter 2004-357, Laws of Florida, and sections 288.9515 and 288.9517, Florida Statutes, are repealed.

Reviser's note.—The cited sections, which relate to technology development programs, were repealed by s. 80, ch. 2003-399, Laws of Florida, effective July 1, 2004. Since the sections were not repealed by a “current session” of the Legislature, they may be omitted from the 2005 Florida Statutes only through a reviser's bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 14. Subsection (4) of section 339.08, Florida Statutes, as amended by section 8 of chapter 2004-366, Laws of Florida, is repealed.

Reviser's note.—The cited subsection, which transfers specified funds from the State Transportation Trust Fund to the General Revenue Fund for the 2003-2004 fiscal year only, expired pursuant to its own terms, effective July 1, 2004.

Section 15. Subsection (3) of section 339.082, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to termination of the Federal Law Enforcement Trust Fund within the Department of Transportation, was repealed by s. 2, ch. 2002-136, Laws of Florida, effective May 25, 2004. Since the subsection was not repealed by a “current session” of the Legislature, it may be omitted from the 2005 Florida Statutes only through a reviser's bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 16. Subsection (3) of section 372.127, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to termination of the Conservation and Recreation Lands Program Trust Fund of the Fish and Wildlife Conservation Commission, was repealed by s. 2, ch. 2001-34, Laws of Florida, effective July 1, 2004. Since the subsection was not repealed by a “current session” of the Legislature, it may be omitted from the 2005 Florida Statutes only through a reviser's bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 17. Subsection (9) of section 372.561, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to implementation of fees for hunting and fishing licenses and permits, expired pursuant to its own terms, effective July 1, 2004.

Section 18. Subsection (6) of section 376.875, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to use of moneys in the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund for the 2003-2004 fiscal year only, expired pursuant to its own terms, effective July 1, 2004.

Section 19. Subsection (7) of section 381.79, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to disbursement of specified appropriated funds for brain and spinal cord injury research for the 2003-2004 fiscal year only, expired pursuant to its own terms, effective July 1, 2004.

Section 20. Section 456.0375, Florida Statutes, is repealed.

Reviser's note.—The cited section, which relates to registration of certain clinics, was repealed by s. 15, ch. 2003-411, Laws of Florida, effective March 1, 2004. Since the section was not repealed by a “current session” of the Legislature, it may be omitted from the 2005 Florida Statutes only through a reviser's bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 21. Paragraph (f) of subsection (3) of section 601.15, Florida Statutes, is repealed.

Reviser's note.—The cited paragraph, which relates to reduction of citrus excise tax rates for the 2003-2004 fiscal year only, expired pursuant to its own terms, effective July 1, 2004.

Section 22. Subsection (3) of section 723.06115, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to termination of the Florida Mobile Home Relocation Trust Fund, was repealed by s. 2, ch. 2003-249, Laws of Florida, effective November 4, 2004. Since the subsection was not repealed by a “current session” of the Legislature, it may be omitted from the 2005 Florida Statutes only through a reviser's bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 23. Paragraph (d) of subsection (5) of section 932.7055, Florida Statutes, as amended by section 3 of chapter 2004-39, Laws of Florida, is repealed.

Reviser's note.—The cited paragraph, which relates to expenditure of funds in a special law enforcement trust fund established by the governing body of a municipality for the 2003-2004 fiscal year only, expired pursuant to its own terms, effective July 1, 2004.

Section 24. Subsection (2) of section 985.4075, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to a prohibition on use of operations appropriations for one-time startup funding for fixed capital outlay for juvenile justice programs, expired pursuant to its own terms, effective July 1, 2004.

Section 25. Section 1004.225, Florida Statutes, is repealed.

Reviser's note.—The cited section, which consists of the Florida Technology Development Act, expired pursuant to its own terms, effective July 1, 2004.

Section 26. Subsection (3) of section 1010.87, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to termination of the Workers' Compensation Administration Trust Fund within the Department of Education, was repealed by s. 2, ch. 2003-208, Laws of Florida, effective November 4, 2004. Since the subsection was not repealed by a “current session” of the Legislature, it may be omitted from the 2005 Florida Statutes only through a reviser's bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 27. Section 378.035, Florida Statutes, as amended by section 4 of chapter 2003-423, Laws of Florida, is amended to read:

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

(1) The department shall administer the Nonmandatory Land Reclamation Trust Fund.

(2)(a) The department shall verify that reclamation activities or portions thereof have been accomplished in accordance with the reclamation contract and shall certify the cost of such reclamation activities to the Chief Financial Officer for reimbursement.

(b) Beginning in 1985, the department shall determine the maximum dollar amount a landowner may be reimbursed per reclaimed acre under an approved reclamation program.

(c) Nothing in this act precludes a landowner from performing the reclamation pursuant to the approved reclamation program, provided the landowner complies with the provisions of this act.

(3) If an applicant who has signed a reclamation contract abandons the reclamation program prior to substantial completion of the program, the department may spend the remaining balance of funds not expended under the contract to complete the program.

(a) The contract amount and any amounts spent by the department in excess of the remaining balance of the funds under the contract become a lien upon the property, enforceable pursuant to chapter 85. The moneys received as a result of a lien foreclosure or as repayment shall be deposited into the trust fund.

(b) If the land acquired pursuant to the lien foreclosure has recreational or wildlife value, the department may retain ownership as with other property acquired pursuant to s. 378.036. If the department sells the property, the department shall deposit the proceeds of the sale into the trust fund.

(4) Interest on moneys deposited in the Nonmandatory Land Reclamation Trust Fund shall accrue to that fund.

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

(a) To reclaim lands disturbed by the severance of phosphate rock on or after July 1, 1975, in the event that a mining company ceases mining and the associated reclamation prior to all lands disturbed by the operation being reclaimed. Moneys expended by the department to accomplish reclamation pursuant to this subsection shall become a lien upon the property enforceable pursuant to chapter 85. The moneys received as a result of a lien foreclosure or as repayment shall be deposited into the trust fund. In the event the money received as a result of lien foreclosure or repayment is less than the amount expended for reclamation, the department shall use all means available to recover, for the use of the fund, the difference from the affected parties. Paragraph (3)(b) shall apply to lands acquired as a result of a lien foreclosure.

(b) For the abatement of an imminent hazard as provided by s. 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(6).

(c) For the purpose of funding basic management or protection of reclaimed, restored, or preserved phosphate lands:

1. Which have wildlife habitat value as determined by the Bureau of Mine Reclamation;
2. Which have been transferred by the landowner to a public agency or a private, nonprofit land conservation and management entity in fee simple, or which have been made subject to a conservation easement pursuant to s. 704.06; and
3. For which other management funding options are not available.

These funds may, after the basic management or protection has been assured for all such lands, be combined with other available funds to provide a higher level of management for such lands.

(d) For the sole purpose of funding the department's implementation of:

1. The NPDES permitting program authorized by s. 403.0885, as it applies to phosphate mining and beneficiation facilities, phosphate fertilizer production facilities, and phosphate loading and handling facilities;
2. The regulation of dams in accordance with department rule 62-672, Florida Administrative Code; and
3. The phosphogypsum management program pursuant to s. 403.4154 and department rule 62-673, Florida Administrative Code.

(6) Should the nonmandatory land reclamation program encumber all the funds in the Nonmandatory Land Reclamation Trust Fund except those reserved by subsection (5) prior to funding all the reclamation applications for eligible parcels, the funds reserved by subsection (5) shall be available to the program to the extent required to complete the reclamation of all eligible parcels for which the department has received applications.

(7) The department may not accept any applications for nonmandatory land reclamation programs after January 1, 2005.

(8) The Bureau of Mine Reclamation shall review the sufficiency of the Nonmandatory Land Reclamation Trust Fund to support the stated objectives and report to the secretary annually with recommendations as appropriate.

~~(9) For the 2003-2004 fiscal year only, notwithstanding the provisions of subsections (5) and (6), the department is authorized to expend the moneys appropriated in the General Appropriations Act for the abatement of imminent hazards caused by, and for the closure of, abandoned phosphogypsum stack systems as provided in subsections (3) and (5) of s. 403.4154, respectively. This subsection expires July 1, 2004.~~

~~For the 2003-2004 fiscal year the department may not approve or encumber nonmandatory reclamation projects in amounts greater than \$15 million.~~

Reviser's note.—Subsection (9), which relates to authorization of the Department of Environmental Protection to expend appropriated moneys

for the abatement of imminent hazards caused by, and for the closure of, abandoned phosphogypsum stack systems for the 2003-2004 fiscal year only, expired pursuant to its own terms, effective July 1, 2004. The flush left paragraph at the end of s. 378.035 is repealed to conform to the fact that it prohibits approval of specified moneys for the 2003-2004 fiscal year only.

Section 28. Section 383.410, Florida Statutes, is repealed.

Reviser's note.—The cited section, which relates to confidential information obtained by the State Child Abuse Death Review Committee, or specified related committees or panels, is repealed to confirm the October 2, 2004, repeal of an exemption in accordance with s. 119.15, the Open Government Sunset Review Act of 1995.

Section 29. Subsection (3) of section 202.35, Florida Statutes, is amended to read:

202.35 Powers of department in dealing with delinquents; tax to be separately stated.—

(3) If a dealer or other person fails or refuses to make his or her records available for inspection so that an audit or examination of his or her books and records cannot be made, fails or refuses to register as a dealer, fails to make a report and pay the tax as provided by this chapter, makes a grossly incorrect report, or makes a report that is false or fraudulent, the department shall make an assessment from an estimate based upon the best information then available to it for the taxable period of retail sales of the dealer, together with any accrued interest and penalties. The department shall then proceed to collect the taxes, interest, and penalties on the basis of such assessment, which shall be considered prima facie correct; and the burden to show the contrary rests upon the dealer or other person. If the dealer fails to respond to a contact made pursuant to s. 202.27(6) ~~or a notice issued pursuant to s. 202.27(7)~~, or if a dealer's records are determined to be inadequate for purposes of determining whether the dealer properly allocated tax to and between local governments, the department may determine the proper allocation or reallocation based upon the best information available to the department and shall seek the agreement of the affected local governments.

Reviser's note.—Amended to conform to the repeal of s. 202.27(7) by this act to confirm the repeal of the subsection by s. 6, ch. 2003-254, Laws of Florida, effective June 30, 2004.

Section 30. Paragraph (a) of subsection (1) of section 627.732, Florida Statutes, is amended to read:

627.732 Definitions.—As used in ss. 627.730-627.7405, the term:

(1) "Broker" means any person not possessing a license under chapter 395, chapter 400, chapter 458, chapter 459, chapter 460, chapter 461, or chapter 641 who charges or receives compensation for any use of medical equipment and is not the 100-percent owner or the 100-percent lessee of such equipment. For purposes of this section, such owner or lessee may be

an individual, a corporation, a partnership, or any other entity and any of its 100-percent-owned affiliates and subsidiaries. For purposes of this subsection, the term “lessee” means a long-term lessee under a capital or operating lease, but does not include a part-time lessee. The term “broker” does not include a hospital or physician management company whose medical equipment is ancillary to the practices managed, a debt collection agency, or an entity that has contracted with the insurer to obtain a discounted rate for such services; nor does the term include a management company that has contracted to provide general management services for a licensed physician or health care facility and whose compensation is not materially affected by the usage or frequency of usage of medical equipment or an entity that is 100-percent owned by one or more hospitals or physicians. The term “broker” does not include a person or entity that certifies, upon request of an insurer, that:

(a) It is a clinic ~~registered under s. 456.0375 or~~ licensed under ss. 400.990-400.995;

Reviser’s note.—Amended to conform to the repeal of s. 456.0375 by this act to confirm the repeal of s. 456.0375 by s. 15, ch. 2003-411, Laws of Florida, effective March 1, 2004.

Approved by the Governor April 5, 2005.

Filed in Office Secretary of State April 5, 2005.