CHAPTER 2006-1

House Bill No. 7067

An act relating to the Florida Statutes; amending ss. 17.076, 20.165, 23.21, 27.51, 28.2222, 39.3035, 43.16, 98.077, 101.051, 101.111, 112.0455, 112.061, 112.31901, 119.071, 119.15, 161.72, 161.74, 163.3180, 163.3184, 163.3187, 201.15, 202.26, 215.965, 216.136, 253.01, 253.03, 253.74, 316.272, 320.0843, 320.27, 322.121, 337.195, 339.2819, 348.9932, 373.036, 373.0361, 373.1961, 373.421, 375.075, 390.01114, 402.7305, 403.813, 404.056, 406.11, 409.165, 409.814, 409.91196, 440.05, 443.121, 445.009, 466.004, 475.713, 475.801, 475.805, 497.458, 497.459, 499.024, 517.12, 553.792, 553.80, 553.842, 553.8425, 556.102, 570.076, 608.4355, 608.4381, 620.1108, 620.1110, 620.1204, 620.1207, 620.1407, 620.2118, 620.2120, 620.2204, 620.8101, 620.8702, 620.8703, 624.501, 624.509, 626.9911, 627.351, 627.3511, 627.6418, 627.6613, 627.711, 627.7295, 633.026, 633.539, 634.021, 634.401, 636.223, 641.31, 658.12, 694.16, 721.13, 732.103, 739.104, 765.101, 774.203, 774.204, 774.205, 774.208, 784.046, 790.25, 872.05, 895.09, 938.29, 943.04353, 948.012, 948.03, 948.061, 948.062, 1008.25, and 1013.30, F.S.; reenacting ss. 267.0619, 339.64, and 397.405, F.S.; and repealing ss. 624.91(3)(d) and 626.8411(2)(d), 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that have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and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; confirming the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process; and conforming to the directive of the Legislature in s. 1, ch. 93-199, Laws of Florida, to remove gender-specific references applicable to human beings from the Florida Statutes without substantive change in legal effect; providing an effective date.

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

Section 1. Subsection (5) of section 17.076, Florida Statutes, is amended to read:

17.076 Direct deposit of funds.—

(5) All direct deposit records made prior to October 1, 1986, are exempt from the provisions of s. 119.07(1). With respect to direct deposit records made on or after October 1, 1986, the names of the authorized financial institutions and the account numbers of the beneficiaries are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Notwithstanding this exemption and the provisions of s. 119.071(5)(b) ~~119.07(3)(dd)~~, the department may provide a state university,

upon request, with that university's employee or vendor direct deposit authorization information on file with the department in order to accommodate the transition to the university accounting system. The state university shall maintain the confidentiality of all such information provided by the department.

Reviser's note.—Amended to conform to the redesignation of s. 119.07(3)(dd) as s. 119.07(6)(dd) by s. 7, ch. 2004-335, Laws of Florida, and the further redesignation of s. 119.07(6)(dd) as s. 119.071(5)(b) by s. 25, ch. 2005-251, Laws of Florida.

Section 2. Paragraph (b) of subsection (9) of section 20.165, Florida Statutes, is amended to read:

20.165 Department of Business and Professional Regulation.—There is created a Department of Business and Professional Regulation.

(9)

(b) All employees certified under chapter 943 as law enforcement officers shall have felony arrest powers under s. 901.15(12) ~~901.15(10)~~ and shall have all the powers of deputy sheriffs to:

1. Investigate, enforce, and prosecute, throughout the state, violations and violators of:

a. Parts I and II of chapter 210; part VII of chapter 559; and chapters 561-569; and the rules promulgated thereunder, as well as other state laws which the division, all state law enforcement officers, or beverage enforcement agents are specifically authorized to enforce.

b. All other state laws, provided that the employee exercises the powers of a deputy sheriff, only after consultation and in coordination with the appropriate local sheriff's office, and only if the violation could result in an administrative proceeding against a license or permit issued by the division.

2. Enforce all criminal laws of the state within specified jurisdictions when the division is a party to a written mutual aid agreement with a state agency, sheriff, or municipal police department, or when the division participates in the Florida Mutual Aid Plan during a declared state emergency.

Reviser's note.—Amended to conform to the current location of referenced material in s. 901.15, relating to felony arrest powers. The reference as added by s. 1, ch. 95-346, Laws of Florida, was originally to s. 901.15(11). That material has been redesignated several times since and is currently in s. 901.15(12).

Section 3. Subsection (1) of section 23.21, Florida Statutes, is amended to read:

23.21 Definitions.—For purposes of this part:

(1) "Department" means a principal administrative unit within the executive branch of state government, as defined in chapter 20, and includes the

State Board of Administration, the Executive Office of the Governor, the Fish and Wildlife Conservation Commission, the Parole Commission, the Agency for Health Care Administration, the Board of Regents, the State Board of Community Colleges, the Justice Administrative Commission, the capital collateral regional counsel ~~Representative~~, and separate budget entities placed for administrative purposes within a department.

Reviser's note.—Amended to conform to the replacement of the capital collateral representative with capital collateral regional counsel in s. 27.701 by s. 1, ch. 97-313, Laws of Florida.

Section 4. Paragraph (a) of subsection (5) of section 27.51, Florida Statutes, is amended to read:

27.51 Duties of public defender.—

(5)(a) When direct appellate proceedings prosecuted by a public defender on behalf of an accused and challenging a judgment of conviction and sentence of death terminate in an affirmance of such conviction and sentence, whether by the Florida Supreme Court or by the United States Supreme Court or by expiration of any deadline for filing such appeal in a state or federal court, the public defender shall notify the accused of his or her rights pursuant to Rule 3.850, Florida Rules of Criminal Procedure, including any time limits pertinent thereto, and shall advise such person that representation in any collateral proceedings is the responsibility of the capital collateral regional counsel ~~representative~~. The public defender shall then forward all original files on the matter to the capital collateral regional counsel ~~representative~~, retaining such copies for his or her files as may be desired. However, the trial court shall retain the power to appoint the public defender or other attorney not employed by the capital collateral regional counsel ~~representative~~ to represent such person in proceedings for relief by executive clemency pursuant to ss. 27.40 and 27.5303.

Reviser's note.—Amended to conform to the replacement of the capital collateral representative with capital collateral regional counsel in s. 27.701 by s. 1, ch. 97-313, Laws of Florida.

Section 5. Section 28.2222, Florida Statutes, is amended to read:

28.2222 Public records capital improvement plan.—On ~~or before December 1, 1995, and on~~ or before December 1 of each year immediately preceding each year in which the Public Records Modernization Trust Fund is scheduled for review under s. 19(f)(2), Art. III of the State Constitution, each clerk of the circuit court shall file a 4-year capital improvement plan with the President of the Senate and the Speaker of the House of Representatives. The plan must specify the clerk's goals for modernizing and improving the storage of, and public access to, public records and must state the manner in which moneys from the trust fund will be expended to obtain the stated objectives. The plan must specify the methodology used to determine the projected cost to implement the plan and to determine the projected revenue to meet the cost. ~~The plan due December 1, 1995, must report on the period from November 4, 1996, through September 30, 1999.~~ Each ~~subsequent~~ capital improvement plan must state the progress made in fulfilling the

objectives listed in the previously filed capital improvement plan and must state the manner in which moneys from the trust fund were expended to reach those objectives.

Reviser's note.—Amended to delete obsolete language relating to an initial public records capital improvement plan that was due December 1, 1995.

Section 6. Subsection (3) of section 39.3035, Florida Statutes, is amended to read:

39.3035 Child advocacy centers; standards; state funding.—

(3) A child advocacy center within this state may not receive the funds generated pursuant to s. 938.10 ~~983.10~~, state or federal funds administered by a state agency, or any other funds appropriated by the Legislature unless all of the standards of subsection (1) are met and the screening requirement of subsection (2) is met. The Florida Network of Children's Advocacy Centers, Inc., shall be responsible for tracking and documenting compliance with subsections (1) and (2) for any of the funds it administers to member child advocacy centers.

Reviser's note.—Amended to correct a reference to nonexistent s. 983.10; s. 938.10 relates to added court costs imposed in certain cases involving crimes against minors.

Section 7. Paragraph (a) of subsection (5) of section 43.16, Florida Statutes, is amended to read:

43.16 Justice Administrative Commission; membership, powers and duties.—

(5) The duties of the commission shall include, but not be limited to, the following:

(a) The maintenance of a central state office for administrative services and assistance when possible to and on behalf of the state attorneys and public defenders of Florida, the ~~office of~~ capital collateral regional counsel ~~representative~~ of Florida, and the Guardian Ad Litem Program.

Reviser's note.—Amended to conform to the replacement of the Office of Capital Collateral Representative with capital collateral regional counsel in s. 27.701 by s. 1, ch. 97-313, Laws of Florida.

Section 8. Subsection (3) of section 98.077, Florida Statutes, is amended to read:

98.077 Update of voter signature.—

(3) At least once during each general election year, the supervisor shall publish in a newspaper of general circulation or other newspaper in the county deemed appropriate by the supervisor a notice specifying when, where, or how a voter can update his or her signature that is on file and how

a voter can obtain a voter registration application from a voter registration official ~~to do so~~.

Reviser's note.—Amended to confirm the deletion by the editors of the words "to do so" following the word "official" to improve clarity.

Section 9. Subsection (4) of section 101.051, Florida Statutes, is amended to read:

101.051 Electors seeking assistance in casting ballots; oath to be executed; forms to be furnished.—

(4) If an elector needs assistance in voting pursuant to the provisions of this section, the clerk or one of the inspectors shall require the elector requesting assistance in voting to take the following oath:

DECLARATION TO SECURE ASSISTANCE

State of Florida
County of ....
Date ....
Precinct ....

I, ...(Print name)..., swear or affirm that I am a registered elector and request assistance from ...(Print names)... in voting at the ...(name of election)... held on ...(date of election)....

...(Signature of <u>voter</u> ~~assistor~~)...

Sworn and subscribed to before me this .... day of ...., ...(year)....

...(Signature of Official Administering Oath)...

Reviser's note.—Amended to confirm the substitution by the editors of the word "voter" for the word "assistor" to conform to context and correct a coding error.

Section 10. Subsection (4) of section 101.111, Florida Statutes, is amended to read:

101.111 Person desiring to vote may be challenged; challenger to execute oath; oath of person challenged; determination of challenge.—

(4) Any elector or poll watcher filing a frivolous challenge of any person's right to vote commits a misdemeanor of the first degree, punishable as provided in s. 775.082~~,~~ <u>or</u> s. 775.083~~, or s. 775.084~~; however, electors or poll watchers shall not be subject to liability for any action taken in good faith and in furtherance of any activity or duty permitted of such electors or poll watchers by law. Each instance where any elector or poll watcher files a frivolous challenge of any person's right to vote constitutes a separate offense.

Reviser's note.—Amended to delete an erroneous reference. Section 775.084 does not relate to misdemeanors; it relates to violent career criminals, habitual felony offenders, and habitual violent felony offenders.

Section 11. Paragraph (f) of subsection (13) of section 112.0455, Florida Statutes, is amended to read:

112.0455 Drug-Free Workplace Act.—

(13) RULES.—

(f) The Justice Administrative Commission may adopt rules on behalf of the state attorneys and public defenders of Florida, the ~~Office of~~ capital collateral regional counsel ~~Representative~~ of Florida, and the Judicial Qualifications Commission.

This section shall not be construed to eliminate the bargainable rights as provided in the collective bargaining process where applicable.

Reviser's note.—Amended to conform to the replacement of the Office of Capital Collateral Representative with capital collateral regional counsel in s. 27.701 by s. 1, ch. 97-313, Laws of Florida.

Section 12. Paragraph (d) of subsection (7) of section 112.061, Florida Statutes, is amended to read:

112.061 Per diem and travel expenses of public officers, employees, and authorized persons.—

(7) TRANSPORTATION.—

(d)1. The use of privately owned vehicles for official travel in lieu of publicly owned vehicles or common carriers may be authorized by the agency head or his or her designee. Whenever travel is by privately owned vehicle, the traveler shall be entitled to a mileage allowance at a fixed rate of ~~25 cents per mile for state fiscal year 1994-1995 and~~ 29 cents per mile ~~thereafter~~ or the common carrier fare for such travel, as determined by the agency head. Reimbursement for expenditures related to the operation, maintenance, and ownership of a vehicle shall not be allowed when privately owned vehicles are used on public business and reimbursement is made pursuant to this paragraph, except as provided in subsection (8).

2. All mileage shall be shown from point of origin to point of destination and, when possible, shall be computed on the basis of the current map of the Department of Transportation. Vicinity mileage necessary for the conduct of official business is allowable but must be shown as a separate item on the expense voucher.

Reviser's note.—Amended to delete obsolete language relating to a mileage rate for the 1994-1995 fiscal year.

Section 13. Subsection (1) of section 112.31901, Florida Statutes, is amended to read:

112.31901 Investigatory records.—

(1) If certified pursuant to subsection (2), an investigatory record of the Chief Inspector General within the Executive Office of the Governor or of the

employee designated by an agency head as the agency inspector general under s. 112.3189 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation ~~registration~~ ceases to be active, or a report detailing the investigation is provided to the Governor or the agency head, or 60 days from the inception of the investigation for which the record was made or received, whichever first occurs. Investigatory records are those records that are related to the investigation of an alleged, specific act or omission or other wrongdoing, with respect to an identifiable person or group of persons, based on information compiled by the Chief Inspector General or by an agency inspector general, as named under the provisions of s. 112.3189, in the course of an investigation. An investigation is active if it is continuing with a reasonable, good faith anticipation of resolution and with reasonable dispatch.

Reviser's note.—Amended to correct an apparent drafting error and to conform to context.

Section 14. Paragraph (d) of subsection (4) and paragraph (a) of subsection (5) of section 119.071, Florida Statutes, are amended to read:

119.071 General exemptions from inspection or copying of public records.—

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. The home addresses, telephone numbers, social security numbers, and photographs of active or former law enforcement personnel, including correctional and correctional probation officers, personnel of the Department of Children and Family Services whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1). The home addresses, telephone numbers, and photographs of firefighters certified in compliance with s. 633.35; the home addresses, telephone numbers, photographs, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1). The home addresses and telephone numbers of justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the home addresses, telephone numbers, and places of employment of the spouses and children of justices and judges; and the names and locations of schools and day care facilities attended by the children of justices and judges are exempt from s. 119.07(1). The home addresses, telephone numbers, social security numbers, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the home addresses, telephone numbers, social security numbers, photographs,

and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. The home addresses, telephone numbers, social security numbers, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

3. The home addresses, telephone numbers, social security numbers, and photographs of current or former United States attorneys and assistant United States attorneys; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of current or former United States attorneys and assistant United States attorneys; and the names and locations of schools and day care facilities attended by the children of current or former United States attorneys and assistant United States attorneys are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

4. The home addresses, telephone numbers, social security numbers, and photographs of current or former judges of United States Courts of Appeal, United States district judges, and United States magistrate judges; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of current or former judges of United States Courts of Appeal, United States district judges, and United States magistrate judges; and the names and locations of schools and day care facilities attended by the children of current or former judges of United States Courts of Appeal, United States district judges, and United States magistrate judges are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

5. The home addresses, telephone numbers, social security numbers, and photographs of current or former code enforcement officers; the names,

home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

6. The home addresses, telephone numbers, places of employment, and photographs of current or former guardians ad litem, as defined in s. 39.820, and the names, home addresses, telephone numbers, and places of employment of the spouses and children of such persons, are exempt from s. 119.07(1) ~~subsection (1)~~ and s. 24(a), Art. I of the State Constitution, if the guardian ad litem provides a written statement that the guardian ad litem has made reasonable efforts to protect such information from being accessible through other means available to the public. This subparagraph is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

7. An agency that is the custodian of the personal information specified in subparagraph 1., subparagraph 2., subparagraph 3., subparagraph 4., subparagraph 5., or subparagraph 6. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 1., subparagraph 2., subparagraph 3., subparagraph 4., subparagraph 5., or subparagraph 6. shall maintain the exempt status of the personal information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written request for maintenance of the exemption to the custodial agency.

(5) OTHER PERSONAL INFORMATION.—

(a)1. The Legislature acknowledges that the social security number was never intended to be used for business purposes but was intended to be used solely for the administration of the federal Social Security System. The Legislature is further aware that over time this unique numeric identifier has been used extensively for identity verification purposes and other legitimate consensual purposes. The Legislature is also cognizant of the fact that the social security number can be used as a tool to perpetuate fraud against a person and to acquire sensitive personal, financial, medical, and familial information, the release of which could cause great financial or personal harm to an individual. The Legislature intends to monitor the commercial use of social security numbers held by state agencies in order to maintain a balanced public policy.

2. An agency shall not collect an individual's social security number unless authorized by law to do so or unless the collection of the social security number is otherwise imperative for the performance of that agency's duties and responsibilities as prescribed by law. Social security numbers collected by an agency must be relevant to the purpose for which collected and shall not be collected until and unless the need for social security

numbers has been clearly documented. An agency that collects social security numbers shall also segregate that number on a separate page from the rest of the record, or as otherwise appropriate, in order that the social security number be more easily redacted, if required, pursuant to a public records request. An agency collecting a person's social security number shall, upon that person's request, at the time of or prior to the actual collection of the social security number by that agency, provide that person with a statement of the purpose or purposes for which the social security number is being collected and used. Social security numbers collected by an agency shall not be used by that agency for any purpose other than the purpose stated. Social security numbers collected by an agency prior to May 13, 2002, shall be reviewed for compliance with this subparagraph. If the collection of a social security number prior to May 13, 2002, is found to be unwarranted, the agency shall immediately discontinue the collection of social security numbers for that purpose.

3. Effective October 1, 2002, all social security numbers held by an agency are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to all social security numbers held by an agency before, on, or after the effective date of this exemption.

4. Social security numbers may be disclosed to another governmental entity or its agents, employees, or contractors if disclosure is necessary for the receiving entity to perform its duties and responsibilities. The receiving governmental entity and its agents, employees, and contractors shall maintain the confidential and exempt status of such numbers.

5. An agency shall not deny a commercial entity engaged in the performance of a commercial activity as defined in s. 14.203 or its agents, employees, or contractors access to social security numbers, provided the social security numbers will be used only in the normal course of business for legitimate business purposes, and provided the commercial entity makes a written request for social security numbers, verified as provided in s. 92.525, legibly signed by an authorized officer, employee, or agent of the commercial entity. The verified written request must contain the commercial entity's name, business mailing and location addresses, business telephone number, and a statement of the specific purposes for which it needs the social security numbers and how the social security numbers will be used in the normal course of business for legitimate business purposes. The aggregate of these requests shall serve as the basis for the agency report required in subparagraph 8. An agency may request any other information reasonably necessary to verify the identity of the entity requesting the social security numbers and the specific purposes for which such numbers will be used; however, an agency has no duty to inquire beyond the information contained in the verified written request. A legitimate business purpose includes verification of the accuracy of personal information received by a commercial entity in the normal course of its business; use in a civil, criminal, or administrative proceeding; use for insurance purposes; use in law enforcement and investigation of crimes; use in identifying and preventing fraud; use in matching, verifying, or retrieving information; and use in research activities. A legitimate business purpose does not include the display or bulk sale of social

security numbers to the general public or the distribution of such numbers to any customer that is not identifiable by the distributor.

6. Any person who makes a false representation in order to obtain a social security number pursuant to this paragraph, or any person who willfully and knowingly violates this paragraph, commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. Any public officer who violates this paragraph is guilty of a noncriminal infraction, punishable by a fine not exceeding $500. A commercial entity that provides access to public records containing social security numbers in accordance with this paragraph is not subject to the penalty provisions of this subparagraph.

7.a. On or after October 1, 2002, a person preparing or filing a document to be recorded in the official records by the county recorder as provided for in chapter 28 may not include any person's social security number in that document, unless otherwise expressly required by law. If a social security number is or has been included in a document presented to the county recorder for recording in the official records of the county before, on, or after October 1, 2002, it may be made available as part of the official record available for public inspection and copying.

b. Any person, or his or her attorney or legal guardian, has the right to request that a county recorder remove, from an image or copy of an official record placed on a county recorder's publicly available Internet website or a publicly available Internet website used by a county recorder to display public records or otherwise made electronically available to the general public by such recorder, his or her social security number contained in that official record. Such request must be made in writing, legibly signed by the requester and delivered by mail, facsimile, or electronic transmission, or delivered in person, to the county recorder. The request must specify the identification page number that contains the social security number to be redacted. The county recorder has no duty to inquire beyond the written request to verify the identity of a person requesting redaction. A fee shall not be charged for the redaction of a social security number pursuant to such request.

c. A county recorder shall immediately and conspicuously post signs throughout his or her offices for public viewing and shall immediately and conspicuously post ~~a notice~~, on any Internet website or remote electronic site made available by the county recorder and used for the ordering or display of official records or images or copies of official records, a notice stating, in substantially similar form, the following:

(I) On or after October 1, 2002, any person preparing or filing a document for recordation in the official records may not include a social security number in such document, unless required by law.

(II) Any person has a right to request a county recorder to remove, from an image or copy of an official record placed on a county recorder's publicly available Internet website or on a publicly available Internet website used by a county recorder to display public records or otherwise made electronically available to the general public, any social security number contained in an official record. Such request must be made in writing and delivered by

mail, facsimile, or electronic transmission, or delivered in person, to the county recorder. The request must specify the identification page number that contains the social security number to be redacted. No fee will be charged for the redaction of a social security number pursuant to such a request.

d. Until January 1, 2007, if a social security number, made confidential and exempt pursuant to this paragraph, or a complete bank account, debit, charge, or credit card number made exempt pursuant to paragraph (b) is or has been included in a court file, such number may be included as part of the court record available for public inspection and copying unless redaction is requested by the holder of such number, or by the holder's attorney or legal guardian, in a signed, legibly written request specifying the case name, case number, document heading, and page number. The request must be delivered by mail, facsimile, electronic transmission, or in person to the clerk of the circuit court. The clerk of the circuit court does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction. A fee may not be charged for the redaction of a social security number or a bank account, debit, charge, or credit card number pursuant to such request.

e. Any person who prepares or files a document to be recorded in the official records by the county recorder as provided in chapter 28 may not include a person's social security number or complete bank account, debit, charge, or credit card number in that document unless otherwise expressly required by law. Until January 1, 2007, if a social security number or a complete bank account, debit, charge, or credit card number is or has been included in a document presented to the county recorder for recording in the official records of the county, such number may be made available as part of the official record available for public inspection and copying. Any person, or his or her attorney or legal guardian, may request that a county recorder remove from an image or copy of an official record placed on a county recorder's publicly available Internet website, or a publicly available Internet website used by a county recorder to display public records outside the office or otherwise made electronically available outside the county recorder's office to the general public, his or her social security number or complete account, debit, charge, or credit card number contained in that official record. Such request must be legibly written, signed by the requester, and delivered by mail, facsimile, electronic transmission, or in person to the county recorder. The request must specify the identification page number of the document that contains the number to be redacted. The county recorder does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction. A fee may not be charged for redacting such numbers.

f. Subparagraphs 5. ~~2.~~ and 6. ~~3.~~ do not apply to the clerks of the court or the county recorder with respect to circuit court records and official records.

g. On January 1, 2007, and thereafter, the clerk of the circuit court and the county recorder must keep complete bank account, debit, charge, and credit card numbers exempt as provided for in paragraph (b), and must keep social security numbers confidential and exempt as provided for in subparagraph 3., without any person having to request redaction.

8. Beginning January 31, 2004, and each January 31 thereafter, every agency must file a report with the Secretary of State, the President of the Senate, and the Speaker of the House of Representatives listing the identity of all commercial entities that have requested social security numbers during the preceding calendar year and the specific purpose or purposes stated by each commercial entity regarding its need for social security numbers. If no disclosure requests were made, the agency shall so indicate.

9. Any affected person may petition the circuit court for an order directing compliance with this paragraph.

10. This paragraph does not supersede any other applicable public records exemptions existing prior to May 13, 2002, or created thereafter.

11. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed October 2, 2007, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Paragraph (4)(d) is amended to confirm the substitution by the editors of the cite to s. 119.07(1) for a cite to "subsection (1)" [of s. 119.07] to conform to the transfer of s. 119.07(6)(i) to s. 119.071(4)(d) by s. 23, ch. 2005-251, Laws of Florida. The paragraph is also amended to confirm a substitution by the editors of a cite to the Open Government Sunset Review Act for a reference to the Open Government Sunset Review Act of 1995; the short title was revised by s. 37, ch. 2005-251. Paragraph (5)(a) was amended to confirm the deletion by the editors of the words "a notice" following the word "post" to eliminate redundancy. Paragraph (5)(a) was also amended to correct a cross-reference; material referenced, formerly at s. 119.0721(3) and (4), was relocated to s. 119.071(5)(a)5. and 6., not s. 119.071(5)(a)2. and 3.

Section 15. Paragraph (a) of subsection (4) of section 119.15, Florida Statutes, is amended to read:

119.15 Legislative review of exemptions from public meeting and public records requirements.—

(4)(a) A law that enacts a new exemption or substantially amends an existing exemption must state that the record or meeting is:

1. Exempt from s. <u>24</u> ~~24(a)~~, Art. I of the State Constitution;

2. Exempt from s. 119.07(1) or s. 286.011; and

3. Repealed at the end of 5 years and that the exemption must be reviewed by the Legislature before the scheduled repeal date.

Reviser's note.—Amended to correct an apparent error and conform to the reference to s. 24, Art. I of the State Constitution in subsection (2). Paragraph (4)(a) references exemptions from records or meetings; records are covered in s. 24(a), Art. I; meetings are covered in s. 24(b), Art. I.

Section 16. Subsection (2) of section 161.72, Florida Statutes, is amended to read:

161.72 Findings and intent.—

(2) It is the intent of the Legislature to create the Oceans and Coastal ~~Resources~~ Council to assist the state in identifying new management strategies to achieve the goal of maximizing the protection and conservation of ocean and coastal resources while recognizing their economic benefits.

Reviser's note.—Amended to confirm the deletion by the editors of the word "Resources" from a reference to the Oceans and Coastal Resources Council to conform to the name of the Oceans and Coastal Council as referenced in s. 161.71(2), which defines the council, and in s. 161.73, which provides for creation of the council.

Section 17. Paragraph (n) of subsection (2) of section 161.74, Florida Statutes, is amended to read:

161.74 Responsibilities.—

(2) RESEARCH PLAN.—The council must complete a Florida Oceans and Coastal Scientific Research Plan which shall be used by the Legislature in making funding decisions. The plan must recommend priorities for scientific research projects. The plan must be submitted to the President of the Senate and the Speaker of the House of Representatives by January 15, 2006. Thereafter, annual updates to the plan must be submitted to the President of the Senate and the Speaker of the House of Representatives by February 1 of each year. The research projects contained in the plan must meet at least one of the following objectives:

(n) Developing a statewide analysis of the economic value associated with ocean and coastal resources, developing economic baseline data, methodologies, and consistent measures of oceans and coastal resource economic activity and value, and developing reports that educate Floridians, the United States Commission on ~~National~~ Ocean Policy ~~Commission~~, local, state, and federal agencies and others on the importance of ocean and coastal resources.

Reviser's note.—Amended to confirm the substitution by the editors of a reference to the United States Commission on Ocean Policy for a reference to the National Ocean Policy Commission to conform to the official name of the commission.

Section 18. Paragraph (b) of subsection (16) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(16) It is the intent of the Legislature to provide a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors. The methodology used to calculate proportionate fair-share mitigation under this section shall be as provided for in subsection (12).

(b)1. In its transportation concurrency management system, a local government shall, by December 1, 2006, include methodologies that will be applied to calculate proportionate fair-share mitigation. A developer may choose to satisfy all transportation concurrency requirements by contributing or paying proportionate fair-share mitigation if transportation facilities or facility segments identified as mitigation for traffic impacts are specifically identified for funding in the 5-year schedule of capital improvements in the capital improvements element of the local plan or the long-term concurrency management system or if such contributions or payments to such facilities or segments are reflected in the 5-year schedule of capital improvements in the next regularly scheduled update of the capital improvements element. Updates to the 5-year capital improvements element which reflect proportionate fair-share contributions may not be found not in compliance based on ss. 163.3164(32) ~~163.164(32)~~ and 163.3177(3) if additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed 10 years to fully mitigate impacts on the transportation facilities.

2. Proportionate fair-share mitigation shall be applied as a credit against impact fees to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by the local government's impact fee ordinance.

Reviser's note.—Amended to correct a reference to nonexistent s. 163.164(32); s. 163.3164(32), relating to financial feasibility, conforms to context.

Section 19. Paragraph (b) of subsection (1) and subsections (4) and (17) of section 163.3184, Florida Statutes, are amended to read:

163.3184 Process for adoption of comprehensive plan or plan amendment.—

(1) DEFINITIONS.—As used in this section, the term:

(b) "In compliance" means consistent with the requirements of ss. 163.3177, ~~163.31776,~~ when a local government adopts an educational facilities element, 163.3178, 163.3180, 163.3191, and 163.3245, with the state comprehensive plan, with the appropriate strategic regional policy plan, and with chapter 9J-5, Florida Administrative Code, where such rule is not inconsistent with this part and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable.

(4) INTERGOVERNMENTAL REVIEW.—The governmental agencies specified in paragraph (3)(a) shall provide comments to the state land planning agency within 30 days after receipt by the state land planning agency of the complete proposed plan amendment. If the plan or plan amendment includes or relates to the public school facilities element pursuant to s. 163.3177(12) ~~163.31776~~, the state land planning agency shall submit a copy to the Office of Educational Facilities of the Commissioner of Education for review and comment. The appropriate regional planning council shall also provide its written comments to the state land planning agency within 30

days after receipt by the state land planning agency of the complete proposed plan amendment and shall specify any objections, recommendations for modifications, and comments of any other regional agencies to which the regional planning council may have referred the proposed plan amendment. Written comments submitted by the public within 30 days after notice of transmittal by the local government of the proposed plan amendment will be considered as if submitted by governmental agencies. All written agency and public comments must be made part of the file maintained under subsection (2).

(17) A local government that has adopted a community vision and urban service boundary under s. 163.3177(13) and (14) ~~163.31773(13) and (14)~~ may adopt a plan amendment related to map amendments solely to property within an urban service boundary in the manner described in subsections (1), (2), (7), (14), (15), and (16) and s. 163.3187(1)(c)1.d. and e., 2., and 3., such that state and regional agency review is eliminated. The department may not issue an objections, recommendations, and comments report on proposed plan amendments or a notice of intent on adopted plan amendments; however, affected persons, as defined by paragraph (1)(a), may file a petition for administrative review pursuant to the requirements of s. 163.3187(3)(a) to challenge the compliance of an adopted plan amendment. This subsection does not apply to any amendment within an area of critical state concern, to any amendment that increases residential densities allowable in high-hazard coastal areas as defined in s. 163.3178(2)(h), or to a text change to the goals, policies, or objectives of the local government's comprehensive plan. Amendments submitted under this subsection are exempt from the limitation on the frequency of plan amendments in s. 163.3187.

Reviser's note.—Paragraph (1)(b) and subsection (4) are amended to conform to the repeal of s. 163.31776 by s. 3, ch. 2005-290, Laws of Florida, and the placement of material relating to a public school facilities element in s. 163.3177(12). Subsection (17) is amended to correct a reference to nonexistent s. 163.31773(13) and (14); s. 163.3177(13) and (14) relate to community vision and urban service boundaries, respectively.

Section 20. Paragraph (l) of subsection (1) of section 163.3187, Florida Statutes, is amended to read:

163.3187 Amendment of adopted comprehensive plan.—

(1) Amendments to comprehensive plans adopted pursuant to this part may be made not more than two times during any calendar year, except:

(l) A comprehensive plan amendment to adopt a public educational facilities element pursuant to s. 163.3177(12) ~~163.31776~~ and future land-use-map amendments for school siting may be approved notwithstanding statutory limits on the frequency of adopting plan amendments.

Reviser's note.—Amended to conform to the repeal of s. 163.31776 by s. 3, ch. 2005-290, Laws of Florida, and the placement of material relating to a public school facilities element in s. 163.3177(12).

Section 21. Subsection (13) of section 201.15, Florida Statutes, is amended to read:

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

(13) The distribution of proceeds deposited into the Water Management Lands Trust Fund and the Conservation and Recreation Lands Trust Fund, pursuant to subsections (4) and (5), shall not be used for land acquisition, but may be used for preacquisition costs associated with land purchases. The Legislature intends that the Florida Forever program supplant the acquisition programs formerly authorized under ss. 259.032 and 373.59. ~~Prior to the 2005 Regular Session of the Legislature, the Acquisition and Restoration Council shall review and make recommendations to the Legislature concerning the need to repeal this provision. Based on these recommendations, the Legislature shall review the need to repeal this provision during the 2005 Regular Session.~~

Reviser's note.—Amended to delete obsolete language relating to recommendations and a review to be completed in 2005.

Section 22. Effective July 1, 2007, subsections (10) and (13) of section 201.15, Florida Statutes, as amended by section 1 of chapter 2005-92, Laws of Florida, are amended to read:

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

(10) The lesser ~~lessor~~ of eight and sixty-six hundredths percent of the remaining taxes collected under this chapter or $136 million in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:

(a) Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and be expended by the Department of Community Affairs and by the Florida Housing Finance Corporation for the purposes for which the State Housing Trust Fund was created and exists by law.

(b) Eighty-seven and one-half percent of that amount shall be distributed to the Local Government Housing Trust Fund and shall be used for the purposes for which the Local Government Housing Trust Fund was created and exists by law. Funds from this category may also be used to provide for state and local services to assist the homeless.

(13) The distribution of proceeds deposited into the Water Management Lands Trust Fund and the Conservation and Recreation Lands Trust Fund, pursuant to subsections (4) and (5), shall not be used for land acquisition, but may be used for preacquisition costs associated with land purchases. The Legislature intends that the Florida Forever program supplant the acquisition programs formerly authorized under ss. 259.032 and 373.59. ~~Prior to the 2005 Regular Session of the Legislature, the Acquisition and Restoration Council shall review and make recommendations to the Legislature concerning the need to repeal this provision. Based on these recommendations, the Legislature shall review the need to repeal this provision during the 2005 Regular Session.~~

Reviser's note.—Subsection (10) is amended to confirm the substitution by the editors of the word "lesser" for the word "lessor" to conform to context. Subsection (13) is amended to delete obsolete language relating to recommendations and a review to be completed in 2005.

Section 23. Paragraph (j) of subsection (3) of section 202.26, Florida Statutes, is amended to read:

202.26 Department powers.—

(3) To administer the tax imposed by this chapter, the department may adopt rules relating to:

(j) The types of books and records kept in the regular course of business which must be available during an audit of a dealer's books and records when the dealer has made an allocation or attribution pursuant to the definition of sales prices in s. 202.11(13)(b)8. ~~202.11(14)(b)8.~~ and examples of methods for determining the reasonableness thereof. Books and records kept in the regular course of business include, but are not limited to, general ledgers, price lists, cost records, customer billings, billing system reports, tariffs, and other regulatory filings and rules of regulatory authorities. Such records may be required to be made available to the department in an electronic format when so kept by the dealer. The dealer may support the allocation of charges with books and records kept in the regular course of business covering the dealer's entire service area, including territories outside this state. During an audit, the department may reasonably require production of any additional books and records found necessary to assist in its determination.

Reviser's note.—Amended to correct a reference and conform to context. Section 202.11(14) was redesignated as s. 202.11(13) by s. 1, ch. 2005-187, Laws of Florida.

Section 24. Section 215.965, Florida Statutes, is amended to read:

215.965 Disbursement of state moneys.—Except as provided in s. 17.076, s. 253.025(14), s. 259.041(18), s. 717.124(4)(b) and (c) ~~717.124(5)~~, s. 732.107(5), or s. 733.816(5), all moneys in the State Treasury shall be disbursed by state warrant, drawn by the Chief Financial Officer upon the State Treasury and payable to the ultimate beneficiary. This authorization shall include electronic disbursement.

Reviser's note.—Amended to conform to the redesignation of s. 717.124(5) as s. 717.124(4)(b) and (c) by s. 121, ch. 2004-390, Laws of Florida.

Section 25. Paragraph (a) of subsection (5) of section 216.136, Florida Statutes, is amended to read:

216.136 Consensus estimating conferences; duties and principals.—

(5) CRIMINAL JUSTICE ESTIMATING CONFERENCE.—

(a) Duties.—The Criminal Justice Estimating Conference shall:

1. Develop such official information relating to the criminal justice system, including forecasts of prison admissions and population and of supervised felony offender admissions and population, as the conference determines is needed for the state planning and budgeting system.

2. Develop such official information relating to the number of eligible discharges and the projected number of civil commitments for determining space needs pursuant to the civil proceedings provided under part V of chapter 394.

3. Develop official information relating to the number of sexual offenders and sexual predators who are required by law to be placed on community control, probation, or conditional release who are subject to electronic monitoring. In addition, the Office of Economic and Demographic Research shall study the factors relating to the sentencing of sex offenders from the point of arrest through the imposition of sanctions by the sentencing court, including original charges, plea negotiations, trial dispositions, and sanctions. The Department of Corrections, the Office of the State Courts Administrator, the Florida Department of Law Enforcement, and the state attorneys shall provide information deemed necessary for the study. The final report shall be provided to the President of the Senate and the Speaker of the House <u>of Representatives</u> by March 1, 2006.

Reviser's note.—Amended to confirm the insertion by the editors of the words "of Representatives" following the word "House" to conform to the complete name of the legislative body.

Section 26. Paragraph (c) of subsection (1) of section 253.01, Florida Statutes, is amended to read:

253.01 Internal Improvement Trust Fund established.—

(1)

(c) Notwithstanding any provisions of law to the contrary, if title to any state-owned lands is vested in the Board of Trustees of the Internal Improvement Trust Fund and the lands are located within the Everglades Agricultural Area, then all proceeds from the sale of any such lands shall be deposited into the Internal Improvement Trust Fund. The provisions of this paragraph shall not apply to those lands acquired pursuant to <u>s.</u> ~~ss.~~ 607.0505, and <u>former s.</u> 620.192, or chapter 895.

Reviser's note.—Amended to clarify the status of referenced s. 620.192, which was repealed by s. 25, ch. 2005-267, Laws of Florida.

Section 27. Subsection (12) of section 253.03, Florida Statutes, is amended to read:

253.03 Board of trustees to administer state lands; lands enumerated.—

(12) The Board of Trustees of the Internal Improvement Trust Fund is hereby authorized to administer, manage, control, conserve, protect, and sell all real property forfeited to the state pursuant to ss. 895.01-895.09 or acquired by the state pursuant to s. 607.0505 or former s. 620.192. The board is directed to immediately determine the value of all such property and shall ascertain whether the property is in any way encumbered. If the board determines that it is in the best interest of the state to do so, funds from the Internal Improvement Trust Fund may be used to satisfy any such encumbrances. If forfeited property receipts are not sufficient to satisfy encumbrances on the property and expenses permitted under this section, funds from the Land Acquisition Trust Fund may be used to satisfy any such encumbrances and expenses. All property acquired by the board pursuant to s. 607.0505, former s. 620.192, or ss. 895.01-895.09 shall be sold as soon as commercially feasible unless the Attorney General recommends and the board determines that retention of the property in public ownership would effectuate one or more of the following policies of statewide significance: protection or enhancement of floodplains, marshes, estuaries, lakes, rivers, wilderness areas, wildlife areas, wildlife habitat, or other environmentally sensitive natural areas or ecosystems; or preservation of significant archaeological or historical sites identified by the Secretary of State. In such event the property shall remain in the ownership of the board, to be controlled, managed, and disposed of in accordance with this chapter, and the Internal Improvement Trust Fund shall be reimbursed from the Land Acquisition Trust Fund, or other appropriate fund designated by the board, for any funds expended from the Internal Improvement Trust Fund pursuant to this subsection in regard to such property. Upon the recommendation of the Attorney General, the board may reimburse the investigative agency for its investigative expenses, costs, and attorneys' fees, and may reimburse law enforcement agencies for actual expenses incurred in conducting investigations leading to the forfeiture of such property from funds deposited in the Internal Improvement Trust Fund of the Department of Environmental Protection. The proceeds of the sale of property acquired under s. 607.0505, former s. 620.192, or ss. 895.01-895.09 shall be distributed as follows:

(a) After satisfaction of any valid claims arising under the provisions of s. 895.09(1)(a) or (b), any moneys used to satisfy encumbrances and expended as costs of administration, appraisal, management, conservation, protection, sale, and real estate sales services and any interest earnings lost to the Land Acquisition Trust Fund as of a date certified by the Department of Environmental Protection shall be replaced first in the Land Acquisition Trust Fund, if those funds were used, and then in the Internal Improvement Trust Fund; and

(b) The remainder shall be distributed as set forth in s. 895.09.

Reviser's note.—Amended to clarify the status of referenced s. 620.192, which was repealed by s. 25, ch. 2005-267, Laws of Florida.

Section 28. Subsection (1) of section 253.74, Florida Statutes, is amended to read:

253.74 Penalties.—

(1) Any person who conducts aquaculture activities in excess of those authorized by the board or who conducts such activities on state-owned submerged lands without having previously obtained an authorization from the board commits a misdemeanor and shall be subject to imprisonment for not more than 6 months or fine of not more than $1,000, or both. In addition to such fine and imprisonment, all works, improvements, and animal and plant life involved in the project, may be forfeited to the state.

Reviser's note.—Amended to improve clarity.

Section 29. Section 267.0619, Florida Statutes, is reenacted to read:

267.0619 Historical Museum Grants.—The division may conduct a program to provide:

(1)(a) Grants from the Historical Resources Operating Trust Fund, including matching grants, to a department or agency of the state; a unit of county, municipal, or other local government; or a public or private profit or nonprofit corporation, partnership, or other organization to assist in the development of public educational exhibits relating to the historical resources of Florida; and

(b) Grants from the Historical Resources Operating Trust Fund to Florida history museums that are not state-operated to assist such museums in paying for operating costs.

(2) In order to be eligible to receive a grant from the trust fund to assist in paying operating costs, a Florida history museum must fulfill the following criteria:

(a) The mission of the museum must relate directly and primarily to the history of Florida. If the museum has more than one mission, the museum is eligible to receive a grant for that portion of the operating costs which is reasonably attributable to its mission relating to the history of Florida;

(b) The museum must have been operating and open to the public for at least 180 days each year during the 2-year period immediately preceding the date upon which the museum applies for the grant;

(c) The museum must be open and providing museum services to the public for at least 180 days each year; and

(d) The museum must currently employ, and must have employed during the 2-year period immediately preceding the date upon which the museum applies for the grant, at least one full-time staff member or the equivalent

thereof whose primary responsibility is to acquire, maintain, and exhibit to the public objects that are owned by, or are on loan to, the museum.

(3) An application for a grant must be made to the division on a form provided by the division. The division shall adopt rules prescribing categories of grants, application requirements, criteria and procedures for the review and evaluation of applications, and other procedures necessary for the administration of the program, subject to the requirements of this section. Grant review panels appointed by the Secretary of State and chaired by a member of the Florida Historical Commission or a designee appointed by the commission's presiding officer shall review each application for a museum grant-in-aid. The review panel shall submit to the Secretary of State for approval lists of all applications that are recommended by the panel for the award of grants, arranged in order of priority. The division may award a grant to a Florida history museum only if the award has been approved by the Secretary of State.

(4) Money received as an appropriation or contribution to the grants program must be deposited into the Historical Resources Operating Trust Fund. Money appropriated from general revenue to the trust fund for the program may not be granted to a private for-profit museum. Money appropriated from any source to the trust fund for the program may not be granted to pay the cost of locating, identifying, evaluating, acquiring, preserving, protecting, restoring, rehabilitating, stabilizing, or excavating an archaeological or historic site or a historic building or the planning of any of those activities.

(5) The division may grant moneys quarterly from the Historical Resources Operating Trust Fund to history museums in advance of an exhibit or program for which the moneys are granted.

Reviser's note.—Section 16, ch. 2005-207, Laws of Florida, amended subsection (3) without publishing the introductory paragraph to the section. Absent affirmative evidence of legislative intent to repeal the introductory language, it is reenacted here to confirm that the omission was not intended.

Section 30. Subsection (1) of section 316.272, Florida Statutes, is amended to read:

316.272 Exhaust systems, prevention of noise.—

(1) Every motor vehicle shall at all times be equipped with an exhaust system in good working order and in constant operation, including muffler, manifold pipe, and tailpiping to prevent excessive or unusual noise. In no event shall an exhaust system allow noise at a level which exceeds a maximum decibel level to be established by regulation of the Department of Environmental Protection as provided in s. 403.061(11) ~~403.061(13)~~ in cooperation with the Department of Highway Safety and Motor Vehicles. No person shall use a muffler cutout, bypass or similar device upon a vehicle on a highway.

Reviser's note.—Amended to conform to the current location within s. 403.061 of material relating to noise pollution; s. 14, ch. 78-95, Laws of

Florida, deleted then-existing subsections (8) and (9), and subsection (13) became subsection (11).

Section 31. Subsection (1) of section 320.0843, Florida Statutes, is amended to read:

320.0843 License plates for persons with disabilities eligible for permanent disabled parking permits.—

(1) Any owner or lessee of a motor vehicle who resides in this state and qualifies for a disabled parking permit under s. 320.0848(2), upon application to the department and payment of the license tax for a motor vehicle registered under s. 320.08(2), (3)(a), (b), (c), or (e), (4)(a) or (b), (6)(a), or (9)(c) or (d), shall be issued a license plate as provided by s. 320.06 which, in lieu of the serial number prescribed by s. 320.06, shall be stamped with the international wheelchair user symbol after the serial number of the license plate. The license plate entitles the person to all privileges afforded by a parking permit issued under s. 320.0848. When more <u>than</u> ~~that~~ one registrant is listed on the registration issued under this section, the eligible applicant shall be noted on the registration certificate.

Reviser's note.—Amended to confirm the substitution by the editors of the word "than" for the word "that" to conform to context.

Section 32. Paragraph (b) of subsection (9) of section 320.27, Florida Statutes, is amended to read:

320.27 Motor vehicle dealers.—

(9) DENIAL, SUSPENSION, OR REVOCATION.—

(b) The department may deny, suspend, or revoke any license issued hereunder or under the provisions of s. 320.77 or s. 320.771 upon proof that a licensee has committed, with sufficient frequency so as to establish a pattern of wrongdoing on the part of a licensee, violations of one or more of the following activities:

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

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

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

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

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

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

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

8. Failure to continually meet the requirements of the licensure law.

9. Representation to a customer or any advertisement to the public representing or suggesting that a motor vehicle is a new motor vehicle if such vehicle lawfully cannot be titled in the name of the customer or other member of the public by the seller using a manufacturer's statement of origin as permitted in s. 319.23(1).

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

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

12. Requirement by any motor vehicle dealer that the purchaser of a motor vehicle contract with the dealer for physical damage insurance.

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

14. Violation of any of the provisions of s. 319.35 by any motor vehicle dealer.

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

16. Willful failure to comply with any administrative rule adopted by the department or the provisions of s. 320.131(8).

17. Violation of chapter 319, this chapter, or ss. 559.901-559.9221, which has to do with dealing in or repairing motor vehicles or mobile homes. Additionally, in the case of used motor vehicles, the willful violation of the

federal law and rule in 15 U.S.C. s. 2304, 16 C.F.R. part 455, pertaining to the consumer sales window form.

18. Failure to maintain evidence of notification to the owner or coowner of a vehicle regarding registration or titling fees owed ~~owned~~ as required in s. 320.02(17) ~~320.02(19)~~.

Reviser's note.—Amended to conform to the redesignation of s. 320.02(19) as created by s. 14, ch. 2005-164, Laws of Florida, as s. 320.02(17) by the reviser as a result of the redesignation of existing s. 320.02(17) and (18) as a portion of s. 320.02(16) by s. 1, ch. 2005-254, Laws of Florida. The word "owed" was substituted for the word "owned" to conform to context.

Section 33. Subsection (8) of section 322.121, Florida Statutes, is amended to read:

322.121 Periodic reexamination of all drivers.—

(8) In addition to any other examination authorized by this section, an applicant for a renewal of an endorsement issued under s. 322.57(1)(a), (b), ~~(c),~~ (d), ~~or~~ (e), or (f) may be required to complete successfully an examination of his or her knowledge regarding state and federal rules, regulations, and laws, governing the type of vehicle which he or she is seeking an endorsement to operate.

Reviser's note.—Amended to conform to the redesignation of s. 322.57(1)(c), (d), and (e) as s. 322.57(1)(d), (e), and (f) by s. 90, ch. 2005-164, Laws of Florida.

Section 34. Subsection (3) of section 337.195, Florida Statutes, is amended to read:

337.195 Limits on liability.—

(3) In all cases involving personal injury, property damage, or death, a person or entity who contracts to prepare or provide engineering plans for the construction or repair of a highway, road, street, bridge, or other transportation facility for the Department of Transportation shall be presumed to have prepared such engineering plans using the degree of care and skill ordinarily exercised by other engineers in the field under similar conditions and in similar localities and with due regard for acceptable engineering standards and principles if the engineering plans conformed to the Department of Transportation's design standards material to the condition or defect that was the proximate cause of the personal ~~person~~ injury, property damage, or death. This presumption can be overcome only upon a showing of the person's or entity's gross negligence in the preparation of the engineering plans and shall not be interpreted or construed to alter or affect any claim of the Department of Transportation against such person or entity. The limitation on liability contained in this subsection shall not apply to any hidden or undiscoverable condition created by the engineer. This subsection does not affect any claim of any entity against such engineer or engineering firm, which claim is associated with such entity's facilities on or in Department of Transportation roads or other transportation facilities.

Reviser's note.—Amended to confirm the substitution by the editors of the word "personal" for the word "person" to conform to context.

Section 35. Paragraph (a) of subsection (4) of section 339.2819, Florida Statutes, is amended to read:

339.2819 Transportation Regional Incentive Program.—

(4)(a) Projects to be funded with Transportation Regional Incentive Program funds shall, at a minimum:

1. Support those transportation facilities that serve national, statewide, or regional functions and function as an integrated regional transportation system.

2. Be identified in the capital improvements element of a comprehensive plan that has been determined to be in compliance with part II of chapter 163, after July 1, 2005, or to implement a long-term concurrency management system adopted by a local government in accordance with s. 163.3180(9) ~~163.3177(9)~~. Further, the project shall be in compliance with local government comprehensive plan policies relative to corridor management.

3. Be consistent with the Strategic Intermodal System Plan developed under s. 339.64.

4. Have a commitment for local, regional, or private financial matching funds as a percentage of the overall project cost.

Reviser's note.—Amended to substitute a reference to s. 163.3180(9), relating to long-term transportation and school community management systems, for a reference to s. 163.3177(9), relating to rule adoption of minimum criteria for review and determination of compliance of local government plan elements to conform to context.

Section 36. Subsection (2) of section 339.64, Florida Statutes, is reenacted to read:

339.64 Strategic Intermodal System Plan.—

(2) In association with the continued development of the Strategic Intermodal System Plan, the Florida Transportation Commission, as part of its work program review process, shall conduct an annual assessment of the progress that the department and its transportation partners have made in realizing the goals of economic development, improved mobility, and increased intermodal connectivity of the Strategic Intermodal System. The Florida Transportation Commission shall coordinate with the department, the Statewide Intermodal Transportation Advisory Council, and other appropriate entities when developing this assessment. The Florida Transportation Commission shall deliver a report to the Governor and Legislature no later than 14 days after the regular session begins, with recommendations as necessary to fully implement the Strategic Intermodal System.

Reviser's note.—Reenacted to confirm the continued existence of subsection (2), which was repealed by s. 37, ch. 2005-2, Laws of Florida, a reviser's bill, because it related to obsolete reporting requirements. Those requirements were revised and updated by s. 7, ch. 2005-281, Laws of Florida.

Section 37. Paragraph (a) of subsection (2) of section 348.9932, Florida Statutes, is amended to read:

348.9932 Southwest Florida Expressway Authority.—

(2) The governing body of the authority shall consist of seven voting members and one nonvoting member, as set forth in this subsection.

(a)1.

a. One member who is a permanent resident of Collier County and one member who is a permanent resident of Lee County shall be appointed by the Governor to serve a term of 4 years each. The Governor shall select his or her appointees from a list submitted by the board of county commissioners of each county, with each list recommending five candidates from their respective county.

b. One member who is a permanent resident of Collier County shall be appointed by the Board of County Commissioners of Collier County and one member who is a permanent resident of Lee County shall be appointed by the Board of County Commissioners of Lee County to serve a term of 4 years each.

2. Each member appointed under this paragraph shall be a person of outstanding reputation for integrity, responsibility, and business ability and shall have an interest in ground transportation. No elected official and no person who is an employee, in any capacity, of Collier County or Lee County or of any city within Collier County or Lee County shall be an appointed member of the authority except as set forth in this section.

3. Each appointed member shall be a resident of his or her respective county during his or her entire term.

4. Each appointed member shall be a voting member and shall hold office until his or her successor has been appointed and has qualified. A vacancy occurring during a term shall be filled only for the remainder of the unexpired term.

Reviser's note.—Amended pursuant to the directive of the Legislature in s. 1, ch. 93-199, Laws of Florida, to remove gender-specific references applicable to human beings from the Florida Statutes without substantive change in legal effect.

Section 38. Paragraph (d) of subsection (1) and paragraph (b) of subsection (7) of section 373.036, Florida Statutes, are amended to read:

373.036 Florida water plan; district water management plans.—

(1) FLORIDA WATER PLAN.—In cooperation with the water management districts, regional water supply authorities, and others, the department shall develop the Florida water plan. The Florida water plan shall include, but not be limited to:

(d) Goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives. The state water policy rule, renamed the water resource implementation rule pursuant to s. 373.019(23) ~~373.019(20)~~, shall serve as this part of the plan. Amendments or additions to this part of the Florida water plan shall be adopted by the department as part of the water resource implementation rule. In accordance with s. 373.114, the department shall review rules of the water management districts for consistency with this rule. Amendments to the water resource implementation rule must be adopted by the secretary of the department and be submitted to the President of the Senate and the Speaker of the House of Representatives within 7 days after publication in the Florida Administrative Weekly. Amendments shall not become effective until the conclusion of the next regular session of the Legislature following their adoption.

(7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—

(b) The consolidated annual report shall contain the following elements, as appropriate to that water management district:

1. A district water management plan annual report or the annual work plan report allowed in subparagraph (2)(e)4.

2. The department-approved minimum flows and levels annual priority list and schedule required by s. 373.042(2).

3. The annual 5-year capital improvements plan required by s. 373.536(6)(a)3.

4. The alternative water supplies annual report required by s. 373.1961(3)(n) ~~373.1961(2)(k)~~.

5. The final annual 5-year water resource development work program required by s. 373.536(6)(a)4.

6. The Florida Forever Water Management District Work Plan annual report required by s. 373.199(7).

7. The mitigation donation annual report required by s. 373.414(1)(b)2.

Reviser's note.—Paragraph (1)(d) is amended to conform to the redesignation of subunits of s. 373.019 by s. 1, ch. 2005-291, Laws of Florida. Paragraph (7)(b) is amended to conform to the redesignation of subunits of s. 373.1961 by s. 3, ch. 2005-291.

Section 39. Subsection (3) of section 373.0361, Florida Statutes, is amended to read:

373.0361 Regional water supply planning.—

(3) The water supply development component of a regional water supply plan which deals with or affects public utilities and public water supply for those areas served by a regional water supply authority and its member governments within the boundary of the Southwest Florida Water Management District shall be developed jointly by the authority and the district. In areas not served by regional water supply authorities, or other multijurisdictional water supply entities, and where opportunities exist to meet water supply needs more efficiently through multijurisdictional projects identified pursuant to paragraph (2)(a) ~~s. 372.0361(2)(a)~~, water management districts are directed to assist in developing multijurisdictional approaches to water supply project development jointly with affected water utilities, special districts, and local governments.

Reviser's note.—Amended to confirm the substitution by the editors of a reference to paragraph (2)(a) for a reference to nonexistent s. 372.0361(2)(a); s. 373.0361(2)(a) references multijurisdictional projects.

Section 40. Paragraph (e) of subsection (3) of section 373.1961, Florida Statutes, is amended to read:

373.1961 Water production; general powers and duties; identification of needs; funding criteria; economic incentives; reuse funding.—

(3) FUNDING.—

(e) Applicants for projects that may receive funding assistance pursuant to the Water Protection and Sustainability Program shall, at a minimum, be required to pay 60 percent of the project's construction costs. The water management districts may, at their discretion, totally or partially waive this requirement for projects sponsored by financially disadvantaged small local governments as defined in s. 403.885(5) ~~403.885(4)~~. The water management districts or basin boards may, at their discretion, use ad valorem or federal revenues to assist a project applicant in meeting the requirements of this paragraph.

Reviser's note.—Amended to conform to the redesignation of subunits within s. 403.885 by s. 16, ch. 2005-291, Laws of Florida.

Section 41. Subsection (1) of section 373.421, Florida Statutes, is amended to read:

373.421 Delineation methods; formal determinations.—

(1) The Environmental Regulation Commission shall adopt a unified statewide methodology for the delineation of the extent of wetlands as defined in s. 373.019(25) ~~373.019(22)~~. This methodology shall consider regional differences in the types of soils and vegetation that may serve as indicators of the extent of wetlands. This methodology shall also include provisions for determining the extent of surface waters other than wetlands for the purposes of regulation under s. 373.414. This methodology shall not become effective until ratified by the Legislature. Subsequent to legislative ratification, the wetland definition in s. 373.019(25) ~~373.019(22)~~ and the adopted

wetland methodology shall be binding on the department, the water management districts, local governments, and any other governmental entities. Upon ratification of such wetland methodology, the Legislature preempts the authority of any water management district, state or regional agency, or local government to define wetlands or develop a delineation methodology to implement the definition and determines that the exclusive definition and delineation methodology for wetlands shall be that established pursuant to s. 373.019(25) ~~373.019(22)~~ and this section. Upon such legislative ratification, any existing wetlands definition or wetland delineation methodology shall be superseded by the wetland definition and delineation methodology established pursuant to this chapter. Subsequent to legislative ratification, a delineation of the extent of a surface water or wetland by the department or a water management district, pursuant to a formal determination under subsection (2), or pursuant to a permit issued under this part in which the delineation was field-verified by the permitting agency and specifically approved in the permit, shall be binding on all other governmental entities for the duration of the formal determination or permit. All existing rules and methodologies of the department, the water management districts, and local governments, regarding surface water or wetland definition and delineation shall remain in full force and effect until the common methodology rule becomes effective. However, this shall not be construed to limit any power of the department, the water management districts, and local governments to amend or adopt a surface water or wetland definition or delineation methodology until the common methodology rule becomes effective.

Reviser's note.—Amended to conform to the redesignation of subunits within s. 373.019 by s. 1, ch. 2005-291, Laws of Florida.

Section 42. Subsection (1) of section 375.075, Florida Statutes, is amended to read:

375.075 Outdoor recreation; financial assistance to local governments.—

(1) The Department of Environmental Protection is authorized to establish the Florida Recreation Development Assistance Program to provide grants to qualified local governmental entities to acquire or develop land for public outdoor recreation purposes. To the extent not needed for debt service on bonds issued pursuant to s. 375.051, each year the department shall develop and plan a program which shall be based upon funding of not less than 5 percent of the money credited to the Land Acquisition Trust Fund pursuant to s. 201.15(2) and (3) in that year. ~~Beginning fiscal year 2001-2002,~~ The department shall develop and plan a program which shall be based upon the cumulative total funding provided from this section and from the Florida Forever Trust Fund pursuant to s. 259.105(3)(d) ~~259.105(3)(c)~~.

Reviser's note.—Amended to correct a reference and conform to context and to delete an obsolete date reference. Section 259.105(3)(c) was amended by s. 11, ch. 2000-170, Laws of Florida, and language relating to transfer of funds to the Land Acquisition Trust Fund for grants pursuant to s. 375.075 was stricken; material relating to transfer of funds pursuant to s. 375.075 was added by s. 11, ch. 2000-170, at a new s. 259.105(3)(d).

Section 43. Paragraph (a) of subsection (3) of section 390.01114, Florida Statutes, is amended to read:

390.01114 Parental Notice of Abortion Act.—

(3) NOTIFICATION REQUIRED.—

(a) Actual notice shall be provided by the physician performing or inducing the termination of pregnancy before the performance or inducement of the termination of the pregnancy of a minor. The notice may be given by a referring physician. The physician who performs or induces the termination of pregnancy must receive the written statement of the referring physician certifying that the referring physician has given notice. If actual notice is not possible after a reasonable effort has been made, the physician performing or inducing the termination of pregnancy or the referring physician must give constructive notice. Notice given under this subsection by the physician performing or inducing the termination of pregnancy must include the name and address of the facility providing the termination of pregnancy~~,~~ and the name of the physician providing notice. Notice given under this subsection by a referring physician must include the name and address of the facility where he or she is referring the minor and the name of the physician providing notice. If actual notice is provided by telephone, the physician must actually speak with the parent or guardian, and must record in the minor's medical file the name of the parent or guardian provided notice, the phone number dialed, and the date and time of the call. If constructive notice is given, the physician must document that notice by placing copies of any document related to the constructive notice, including, but not limited to, a copy of the letter and the return receipt, in the minor's medical file.

Reviser's note.—Amended to improve clarity.

Section 44. Section 397.405, Florida Statutes, is reenacted to read:

397.405 Exemptions from licensure.—The following are exempt from the licensing provisions of this chapter:

(1) A hospital or hospital-based component licensed under chapter 395.

(2) A nursing home facility as defined in s. 400.021.

(3) A substance abuse education program established pursuant to s. 1003.42.

(4) A facility or institution operated by the Federal Government.

(5) A physician licensed under chapter 458 or chapter 459.

(6) A psychologist licensed under chapter 490.

(7) A social worker, marriage and family therapist, or mental health counselor licensed under chapter 491.

(8) An established and legally cognizable church or nonprofit religious organization or denomination providing substance abuse services, including

prevention services, which are exclusively religious, spiritual, or ecclesiastical in nature. A church or nonprofit religious organization or denomination providing any of the licensable service components itemized under s. 397.311(18) is not exempt for purposes of its provision of such licensable service components but retains its exemption with respect to all services which are exclusively religious, spiritual, or ecclesiastical in nature.

(9) Facilities licensed under s. 393.063 that, in addition to providing services to persons who are developmentally disabled as defined therein, also provide services to persons developmentally at risk as a consequence of exposure to alcohol or other legal or illegal drugs while in utero.

(10) DUI education and screening services provided pursuant to ss. 316.192, 316.193, 322.095, 322.271, and 322.291. Persons or entities providing treatment services must be licensed under this chapter unless exempted from licensing as provided in this section.

The exemptions from licensure in this section do not apply to any service provider that receives an appropriation, grant, or contract from the state to operate as a service provider as defined in this chapter or to any substance abuse program regulated pursuant to s. 397.406. Furthermore, this chapter may not be construed to limit the practice of a physician licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, or a psychotherapist licensed under chapter 491 who provides substance abuse treatment, so long as the physician, psychologist, or psychotherapist does not represent to the public that he or she is a licensed service provider and does not provide services to clients pursuant to part V of this chapter. Failure to comply with any requirement necessary to maintain an exempt status under this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Reviser's note.—Section 4, ch. 2005-55, Laws of Florida, reenacted subsection (8) without publishing the flush left language at the end of the section. Absent affirmative evidence of legislative intent to repeal the flush left language, it is reenacted here to confirm that the omission was not intended.

Section 45. Subsections (3) and (4) of section 402.7305, Florida Statutes, are amended to read:

402.7305 Department of Children and Family Services; procurement of contractual services; contract management.—

(3) CONTRACT MANAGEMENT REQUIREMENTS AND PROCESS.—The Department of Children and Family Services shall review the time period for which the department executes contracts and shall execute multiyear contracts to make the most efficient use of the resources devoted to contract processing and execution. Whenever the department chooses not to use a multiyear contract, a justification for that decision must be contained in the contract. Notwithstanding s. 287.057(15), the department is responsible for establishing a contract management process that requires a member of the department's Senior Management or Selected ~~Select~~ Exempt Service

to assign in writing the responsibility of a contract to a contract manager. The department shall maintain a set of procedures describing its contract management process which must minimally include the following requirements:

(a) The contract manager shall maintain the official contract file throughout the duration of the contract and for a period not less than 6 years after the termination of the contract.

(b) The contract manager shall review all invoices for compliance with the criteria and payment schedule provided for in the contract and shall approve payment of all invoices before their transmission to the Department of Financial Services for payment.

(c) The contract manager shall maintain a schedule of payments and total amounts disbursed and shall periodically reconcile the records with the state's official accounting records.

(d) For contracts involving the provision of direct client services, the contract manager shall periodically visit the physical location where the services are delivered and speak directly to clients receiving the services and the staff responsible for delivering the services.

(e) The contract manager shall meet at least once a month directly with the contractor's representative and maintain records of such meetings.

(f) The contract manager shall periodically document any differences between the required performance measures and the actual performance measures. If a contractor fails to meet and comply with the performance measures established in the contract, the department may allow a reasonable period for the contractor to correct performance deficiencies. If performance deficiencies are not resolved to the satisfaction of the department within the prescribed time, and if no extenuating circumstances can be documented by the contractor to the department's satisfaction, the department must terminate the contract. The department may not enter into a new contract with that same contractor for the services for which the contract was previously terminated for a period of at least 24 months after the date of termination. The contract manager shall obtain and enforce corrective action plans, if appropriate, and maintain records regarding the completion or failure to complete corrective action items.

(g) The contract manager shall document any contract modifications, which shall include recording any contract amendments as provided for in this section.

(h) The contract manager shall be properly trained before being assigned responsibility for any contract.

(4) CONTRACT MONITORING REQUIREMENTS AND PROCESS.—The department shall establish contract monitoring units staffed by career service employees who report to a member of the Selected ~~Select~~ Exempt Service or Senior Management Service and who have been properly trained to perform contract monitoring, with at least one member of the contract

monitoring unit possessing specific knowledge and experience in the contract's program area. The department shall establish a contract monitoring process that must include, but need not be limited to, the following requirements:

(a) Performing a risk assessment at the start of each fiscal year and preparing an annual contract monitoring schedule that includes consideration for the level of risk assigned. The department may monitor any contract at any time regardless of whether such monitoring was originally included in the annual contract monitoring schedule.

(b) Preparing a contract monitoring plan, including sampling procedures, before performing onsite monitoring at external locations of a service provider. The plan must include a description of the programmatic, fiscal, and administrative components that will be monitored on site. If appropriate, clinical and therapeutic components may be included.

(c) Conducting analyses of the performance and compliance of an external service provider by means of desk reviews if the external service provider will not be monitored on site during a fiscal year.

(d) Unless the department sets forth in writing the need for an extension, providing a written report presenting the results of the monitoring within 30 days after the completion of the onsite monitoring or desk review.

(e) Developing and maintaining a set of procedures describing the contract monitoring process.

Reviser's note.—Amended to conform to the substitution by the editors of the word "Selected" for the word "Select" to conform to the title of the Selected Exempt Service as referenced in part V of chapter 110, which created it.

Section 46. Paragraphs (r) and (u) of subsection (2) of section 403.813, Florida Statutes, are amended to read:

403.813 Permits issued at district centers; exceptions.—

(2) A permit is not required under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, for activities associated with the following types of projects; however, except as otherwise provided in this subsection, nothing in this subsection relieves an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or any water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(r) The removal of aquatic plants, the removal of tussocks, the associated replanting of indigenous aquatic plants, and the associated removal from lakes of organic detrital material when such planting or removal is performed and authorized by permit or exemption granted under s. 369.20 or s. 369.25, provided that:

1. Organic detrital material that exists on the surface of natural mineral substrate shall be allowed to be removed to a depth of 3 feet or to the natural mineral substrate, whichever is less;

2. All material removed pursuant to this paragraph shall be deposited in an upland site in a manner that will prevent the reintroduction of the material into waters in the state except when spoil material is permitted to be used to create wildlife islands in freshwater bodies of the state when a governmental entity is permitted pursuant to s. 369.20 to create such islands as a part of a restoration or enhancement project;

3. All activities are performed in a manner consistent with state water quality standards; and

4. No activities under this exemption are conducted in wetland areas, as defined by s. 373.019(25) ~~373.019(22)~~, which are supported by a natural soil as shown in applicable United States Department of Agriculture county soil surveys, except when a governmental entity is permitted pursuant to s. 369.20 to conduct such activities as a part of a restoration or enhancement project.

The department may not adopt implementing rules for this paragraph, notwithstanding any other provision of law.

(u) Notwithstanding any provision to the contrary in this subsection, a permit or other authorization under chapter 253, chapter 369, chapter 373, or this chapter is not required for an individual residential property owner for the removal of organic detrital material from freshwater rivers or lakes that have a natural sand or rocky substrate and that are not Aquatic Preserves or for the associated removal and replanting of aquatic vegetation for the purpose of environmental enhancement, providing that:

1. No activities under this exemption are conducted in wetland areas, as defined by s. 373.019(25) ~~373.019(22)~~, which are supported by a natural soil as shown in applicable United States Department of Agriculture county soil surveys.

2. No filling or peat mining is allowed.

3. No removal of native wetland trees, including, but not limited to, ash, bay, cypress, gum, maple, or tupelo, occurs.

4. When removing organic detrital material, no portion of the underlying natural mineral substrate or rocky substrate is removed.

5. Organic detrital material and plant material removed is deposited in an upland site in a manner that will not cause water quality violations.

6. All activities are conducted in such a manner, and with appropriate turbidity controls, so as to prevent any water quality violations outside the immediate work area.

7. Replanting with a variety of aquatic plants native to the state shall occur in a minimum of 25 percent of the preexisting vegetated areas where

organic detrital material is removed, except for areas where the material is removed to bare rocky substrate; however, an area may be maintained clear of vegetation as an access corridor. The access corridor width may not exceed 50 percent of the property owner's frontage or 50 feet, whichever is less, and may be a sufficient length waterward to create a corridor to allow access for a boat or swimmer to reach open water. Replanting must be at a minimum density of 2 feet on center and be completed within 90 days after removal of existing aquatic vegetation, except that under dewatered conditions replanting must be completed within 90 days after reflooding. The area to be replanted must extend waterward from the ordinary high water line to a point where normal water depth would be 3 feet or the preexisting vegetation line, whichever is less. Individuals are required to make a reasonable effort to maintain planting density for a period of 6 months after replanting is complete, and the plants, including naturally recruited native aquatic plants, must be allowed to expand and fill in the revegetation area. Native aquatic plants to be used for revegetation must be salvaged from the enhancement project site or obtained from an aquatic plant nursery regulated by the Department of Agriculture and Consumer Services. Plants that are not native to the state may not be used for replanting.

8. No activity occurs any farther than 100 feet waterward of the ordinary high water line, and all activities must be designed and conducted in a manner that will not unreasonably restrict or infringe upon the riparian rights of adjacent upland riparian owners.

9. The person seeking this exemption notifies the applicable department district office in writing at least 30 days before commencing work and allows the department to conduct a preconstruction site inspection. Notice must include an organic-detrital-material removal and disposal plan and, if applicable, a vegetation-removal and revegetation plan.

10. The department is provided written certification of compliance with the terms and conditions of this paragraph within 30 days after completion of any activity occurring under this exemption.

Reviser's note.—Amended to conform to the redesignation of subunits within s. 373.019 by s. 1, ch. 2005-291, Laws of Florida.

Section 47. Subsection (5) of section 404.056, Florida Statutes, is amended to read:

404.056 Environmental radiation standards and projects; certification of persons performing measurement or mitigation services; mandatory testing; notification on real estate documents; rules.—

(5) NOTIFICATION ON REAL ESTATE DOCUMENTS.—Notification shall be provided on at least one document, form, or application executed at the time of, or prior to, contract for sale and purchase of any building or execution of a rental agreement for any building. Such notification shall contain the following language:

"RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health

risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department."

The requirements of this subsection do not apply to any residential transient occupancy, as described in s. 509.013(12) ~~509.013(11)~~, provided that such occupancy is 45 days or less in duration.

Reviser's note.—Amended to conform to the redesignation of s. 509.013(11) as s. 509.013(12) by s. 7, ch. 2004-292, Laws of Florida.

Section 48. Paragraph (b) of subsection (2) of section 406.11, Florida Statutes, is amended to read:

406.11 Examinations, investigations, and autopsies.—

(2)

(b) The Medical Examiners Commission shall adopt rules, pursuant to chapter 120, providing for the notification of the next of kin that an investigation by the medical examiner's office is being conducted. A medical examiner may not retain or furnish any body part of the deceased for research or any other purpose which is not in conjunction with a determination of the identification of or cause or manner of death of the deceased or the presence of disease or which is not otherwise authorized by this chapter, part V ~~X~~ of chapter 765 ~~732~~, or chapter 873, without notification of and approval by the next of kin.

Reviser's note.—Amended to conform to the transfer of material in former part X of chapter 732 to part V of chapter 765 pursuant to ch. 2001-226, Laws of Florida.

Section 49. Paragraph (f) of subsection (3) of section 409.165, Florida Statutes, is amended to read:

409.165 Alternate care for children.—

(3) With the written consent of parents, custodians, or guardians, or in accordance with those provisions in chapter 39 that relate to dependent children, the department, under rules properly adopted, may place a child:

(f) In a subsidized independent living situation, subject to the provisions of s. 409.1451(4)(c) ~~409.1451(3)(c)~~,

under such conditions as are determined to be for the best interests or the welfare of the child. Any child placed in an institution or in a family home by the department or its agency may be removed by the department or its agency, and such other disposition may be made as is for the best interest of the child, including transfer of the child to another institution, another home, or the home of the child. Expenditure of funds appropriated for out-of-home care can be used to meet the needs of a child in the child's own home or the home of a relative if the child can be safely served in the child's own

home or that of a relative if placement can be avoided by the expenditure of such funds, and if the expenditure of such funds in this manner is calculated by the department to be a potential cost savings.

Reviser's note.—Amended to conform to the redesignation of subunits within s. 409.1451 by s. 1, ch. 2004-362, Laws of Florida.

Section 50. Subsection (9) of section 409.814, Florida Statutes, is amended to read:

409.814 Eligibility.—A child who has not reached 19 years of age whose family income is equal to or below 200 percent of the federal poverty level is eligible for the Florida KidCare program as provided in this section. For enrollment in the Children's Medical Services Network, a complete application includes the medical or behavioral health screening. If, subsequently, an individual is determined to be ineligible for coverage, he or she must immediately be disenrolled from the respective Florida KidCare program component.

(9) Subject to paragraph (4)(b) and s. 624.91(4) ~~624.91(3)~~, the Florida KidCare program shall withhold benefits from an enrollee if the program obtains evidence that the enrollee is no longer eligible, submitted incorrect or fraudulent information in order to establish eligibility, or failed to provide verification of eligibility. The applicant or enrollee shall be notified that because of such evidence program benefits will be withheld unless the applicant or enrollee contacts a designated representative of the program by a specified date, which must be within 10 days after the date of notice, to discuss and resolve the matter. The program shall make every effort to resolve the matter within a timeframe that will not cause benefits to be withheld from an eligible enrollee.

Reviser's note.—Amended to conform to the redesignation of subunits within s. 624.91 by s. 6, ch. 2004-1, Laws of Florida.

Section 51. Subsections (1) and (2) of section 409.91196, Florida Statutes, are amended to read:

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

(1) Trade secrets, rebate amount, percent of rebate, manufacturer's pricing, and supplemental rebates which are contained in records of the Agency for Health Care Administration and its agents with respect to supplemental rebate negotiations and which are prepared pursuant to a supplemental rebate agreement under s. 409.912(39)(a)7. ~~409.912(40)(a)7.~~ are confidential and exempt from s. 119.07 and s. 24(a), Art. I of the State Constitution.

(2) Those portions of meetings of the Medicaid Pharmaceutical and Therapeutics Committee at which trade secrets, rebate amount, percent of rebate, manufacturer's pricing, and supplemental rebates are disclosed for discussion or negotiation of a supplemental rebate agreement under s. 409.912(39)(a)7. ~~409.912(40)(a)7.~~ are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

Reviser's note.—Amended to conform to the repeal of former s. 409.912(38) by s. 55, ch. 2004-5, Laws of Florida, and the redesignation of subunits by the reviser necessitated by that repeal.

Section 52. Subsection (11) of section 440.05, Florida Statutes, is amended to read:

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

(11) Any corporate officer permitted by this chapter to claim an exemption must be listed on the records of this state's Secretary of State, Division of Corporations, as a corporate officer. The department shall issue a stop-work order under s. 440.107(7) ~~440.107(1)~~ to any corporation who employs a person who claims to be exempt as a corporate officer but who fails or refuses to produce the documents required under this subsection to the department within 3 business days after the request is made.

Reviser's note.—Amended to correct a reference and conform to context. Section 440.107(1) contains legislative findings; s. 440.107(7) relates to stop-work orders.

Section 53. Paragraph (c) of subsection (3) of section 443.121, Florida Statutes, is amended to read:

443.121 Employing units affected.—

(3) ELECTIVE COVERAGE.—

(c) Certain services for political subdivisions.—

1. Any political subdivision of this state may elect to cover under this chapter, for at least 1 calendar year, service performed by employees in all of the hospitals and institutions of higher education operated by the political subdivision. Election must be made by filing with the tax collection service provider a notice of election at least 30 days before the effective date of the election. The election may exclude any services described in s. 443.1216(4). Any political subdivision electing coverage under this paragraph must be a reimbursing employer and make reimbursements in lieu of contributions for benefits attributable to this employment, provided for nonprofit organizations in s. 443.1312(3) and (5).

2. The provisions of s. 443.091(3) ~~443.091(4)~~ relating to benefit rights based on service for nonprofit organizations and state hospitals and institutions of higher education also apply to service covered by an election under this section.

3. The amounts required to be reimbursed in lieu of contributions by any political subdivision under this paragraph shall be billed, and payment made, as provided in s. 443.1312(3) for similar reimbursements by nonprofit organizations.

4. An election under this paragraph may be terminated after at least 1 calendar year of coverage by filing with the tax collection service provider

written notice not later than 30 days before the last day of the calendar year in which the termination is to be effective. The termination takes effect on January 1 of the next ensuing calendar year for services performed after that date.

Reviser's note.—Amended to correct a long-standing cross-reference error. Section 443.091(4) relates to invocation of federal measures regarding unemployment compensation in the event of a national emergency; benefits for services are covered in s. 443.091(3). See ss. 5 and 7, ch. 71-225, Laws of Florida, for the intended reference.

Section 54. Subsection (9) of section 445.009, Florida Statutes, is amended to read:

445.009 One-stop delivery system.—

(9)(a) Workforce Florida, Inc., working with the Agency for Workforce Innovation, shall coordinate among the agencies a plan for a One-Stop Electronic Network made up of one-stop delivery system centers and other partner agencies that are operated by authorized public or private for-profit or not-for-profit agents. The plan shall identify resources within existing revenues to establish and support this electronic network for service delivery that includes Government Services Direct. If necessary, the plan shall identify additional funding needed to achieve the provisions of this subsection.

(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 Student Financial Assistance System of the Department of Education.

5. Enrollment in the public postsecondary education system.

6. 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 a provision requiring that certain information systems relating to one-stop delivery of workforce services be fully coordinated by July 1, 2001.

Section 55. Paragraph (a) of subsection (2) of section 466.004, Florida Statutes, is amended to read:

466.004 Board of Dentistry.—

(2) To advise the board, it is the intent of the Legislature that councils be appointed as specified in paragraphs (a), (b), and (c). The department shall provide administrative support to the councils and shall provide public notice of meetings and agenda of the councils. Councils shall include at least one board member who shall chair the council and shall include nonboard members. All council members shall be appointed by the board chair. Council members shall be appointed for 4-year terms, and all members shall be eligible for reimbursement of expenses in the manner of board members.

(a) A Council on Dental Hygiene shall be appointed by the board chair and shall include one dental hygienist member of the board, who shall chair the council, one dental member of the board, and three dental hygienists who are actively engaged in the practice of dental hygiene in this state. In making the appointments, the chair shall consider recommendations from the Florida Dental Hygiene ~~Hygienist~~ Association. The council shall meet at the request of the board chair, a majority of the members of the board, or the council chair; however, the council must meet at least three times a year. The council is charged with the responsibility of and shall meet for the purpose of developing rules and policies for recommendation to the board, which the board shall consider, on matters pertaining to that part of dentistry consisting of educational, preventive, or therapeutic dental hygiene services; dental hygiene licensure, discipline, or regulation; and dental hygiene education. Rule and policy recommendations of the council shall be considered by the board at its next regularly scheduled meeting in the same manner in which it considers rule and policy recommendations from designated subcommittees of the board. Any rule or policy proposed by the board pertaining to the specified part of dentistry defined by this subsection shall be referred to the council for a recommendation before final action by the board. The board may take final action on rules pertaining to the specified part of dentistry defined by this subsection without a council recommendation if the council fails to submit a recommendation in a timely fashion as prescribed by the board.

Reviser's note.—Amended to confirm the substitution by the editors of the word "Hygiene" for the word "Hygienists" to conform to the proper name of the Florida Dental Hygiene Association.

Section 56. Subsection (3) of section 475.713, Florida Statutes, is amended to read:

475.713 Civil action concerning commission; order to show cause; hearing; release of proceeds; award of costs and attorney's fees.—

(3) The court shall issue an order releasing the broker's claim of lien against the owner's net proceeds from such disposition, discharging any commission notice that may ~~be~~ have been recorded, ordering the release to the owner of the disputed reserved proceeds, and awarding costs and reasonable attorney's fees to the owner to be paid by the broker if, following a

hearing, the court determines that the owner is not a party to a brokerage agreement that will result in the owner being obligated to pay the broker the claimed commission or any portion thereof with respect to the disposition of the commercial real estate identified in the commission notice. If the court determines that the owner is a party to a brokerage agreement that will result in the owner being obligated to pay the broker the claimed commission or any portion thereof with respect to the disposition of the commercial real estate identified in the commission notice, the court shall issue an order so stating, ordering the release to the broker of the disputed reserved proceeds or such portion thereof to which the court determines that the broker is entitled, and awarding costs and reasonable attorney's fees to the broker to be paid by the owner. Such orders are final judgments.

Reviser's note.—Amended to confirm the deletion by the editors of the word "be" following the word "may" to improve clarity.

Section 57. Subsection (8) of section 475.801, Florida Statutes, is amended to read:

475.801 Definitions.—As used in this part:

(8) "Lien notice" means the written notice of lien made by a broker claiming a commission under s. 475.805 ~~745.805~~.

Reviser's note.—Amended to correct a reference to nonexistent s. 745.805; s. 475.805 relates to the contents of lien notices.

Section 58. Subsection (2) of section 475.805, Florida Statutes, is amended to read:

475.805 Contents of lien notice.—

(2) A lien notice in substantially the following form shall be sufficient for purposes of subsection (1):

BROKER'S COMMISSION LIEN NOTICE
UNDER FLORIDA COMMERCIAL REAL ESTATE
LEASING COMMISSION LIEN ACT

Notice is hereby given, pursuant to the Florida Commercial Real Estate Leasing Commission Lien Act, part IV of chapter 475, Florida Statutes (the "act"), that the undersigned real estate broker is entitled to receive a leasing commission from the owner named below pursuant to the terms of a written brokerage commission agreement regarding a lease of the commercial real estate described below, and the undersigned broker claims a lien under the act against the owner's interest in the commercial real estate in the amount set forth below.

1. Name of the owner who is obligated to pay the commission:

.....

2. (Check one:) The owner obligated to pay the commission is:

[ ] the landlord under the lease.

[ ] the tenant under the lease.

3. Name of the person owning ~~owing~~ the fee simple interest in the commercial real estate, if other than the owner who is obligated to pay the commission:

.....

4. Legal description of the commercial real estate:

.....

5. Name, mailing address, telephone number, and Florida broker license number of the undersigned broker:

.....

.....

.....

6. Effective date of the written brokerage commission agreement between the owner and the broker under which the commission is or will be payable: ....., ...

7. Amount of commission claimed by the undersigned broker:

$....., or ..... percent of rents payable under lease, or

[specify other formula for determination of commission amount]:
.....

8. The lease for which the commission is claimed is described as follows [provide all information known to the broker]:

Name of landlord: .....

Name of tenant: .....

Date of lease: .....,

Leased premises: .....

9. Automatic renewal commissions (check yes or no): Is the undersigned broker claiming a commission that may become payable if the lease is later renewed or modified to expand the leased premises or to extend the lease term, but the written brokerage commission agreement does not expressly require the broker to perform any additional services in order to receive this later commission?

[ ] Yes

[ ] No

If yes, specify the amount of such later commission or the formula for computing the later commission:

.....

10. The expiration date of this lien notice is 2 years after the date of recording, unless the answer to paragraph 9 is yes, in which case the expiration date of this lien notice for the commission described in paragraph 9 is 10 years after the date of recording.

11. The undersigned broker, under penalty of perjury, hereby swears or affirms that the undersigned broker has read this lien notice, knows its contents and believes the same to be true and correct, and that the undersigned broker is making this commission claim pursuant to the written brokerage commission agreement described in this lien notice.

Signed: ...(broker)...

Signed and sworn to or affirmed under penalty of perjury before me, a notary public, this ..... day of ....., ..., by .....
Signed: ...(notary public)...

Reviser's note.—Amended to conform to context.

Section 59. Paragraph (a) of subsection (9) of section 497.458, Florida Statutes, is amended to read:

497.458 Disposition of proceeds received on contracts.—

(9) The amounts required to be placed in trust by this section for contracts previously entered into shall be as follows:

(a) For contracts entered into before October 1, 1993, the trust amounts as amended by s. 6, chapter 83-316 ~~83-816~~, Laws of Florida, shall apply.

Reviser's note.—Amended to correct a reference to s. 6, ch. 83-816, Laws of Florida. Chapter 83-816 does not exist; s. 6, ch. 83-316, Laws of Florida, amended the material currently in s. 497.458.

Section 60. Paragraph (b) of subsection (6) of section 497.459, Florida Statutes, is amended to read:

497.459 Cancellation of, or default on, preneed contracts.—

(6) OTHER PROVISIONS.—

(b) The amounts required to be refunded by this section for contracts previously entered into shall be as follows:

1. For contracts entered into before October 1, 1993, the refund amounts as amended by s. 7, chapter 83-316 ~~83-816~~, Laws of Florida, shall apply.

2. For contracts entered into on or after October 1, 1993, the refund amounts as amended by s. 99, chapter 93-399, Laws of Florida, shall apply.

Reviser's note.—Amended to correct a reference to s. 7, ch. 83-816, Laws of Florida. Chapter 83-816 does not exist; s. 7, ch. 83-316, Laws of Florida, amended the material currently in s. 497.459.

Section 61. Subsection (3) of section 499.024, Florida Statutes, is amended to read:

499.024 Drug product classification.—The secretary shall adopt rules to classify drug products intended for use by humans which the United States Food and Drug Administration has not classified in the federal act or the Code of Federal Regulations.

(3) Any product that falls under the drug definition, s. 499.003(17) ~~499.003(12)~~, may be classified under the authority of this section. This section does not subject portable emergency oxygen inhalators to classification; however, this section does not exempt any person from ss. 499.01 and 499.015.

Reviser's note.—Amended to conform to the redesignation of s. 499.003(12), defining the term "drug," as s. 499.003(17) by s. 3, ch. 2003-155, Laws of Florida.

Section 62. Subsection (20) of section 517.12, Florida Statutes, is amended to read:

517.12 Registration of dealers, associated persons, investment advisers, and branch offices.—

(20) The registration requirements of this section do not apply to any general lines insurance agent or life insurance agent licensed under chapter 626, for the sale of a security as defined in s. 517.021(21)(g) ~~517.021(20)(g)~~, if the individual is directly authorized by the issuer to offer or sell the security on behalf of the issuer and the issuer is a federally chartered savings bank subject to regulation by the Federal Deposit Insurance Corporation. Actions under this subsection shall constitute activity under the insurance agent's license for purposes of ss. 626.611 and 626.621.

Reviser's note.—Amended to correct a reference and conform to context. Section 517.021(20) is not divided into paragraphs; s. 517.021(21)(g) lists certificates of deposit within the definition of the word "security." The reference in s. 517.12, originally to s. 517.021(19)(g), was added by s. 12, ch. 2002-404, Laws of Florida; the cited material there is now in s. 517.021(21)(g).

Section 63. Subsection (1) of section 553.792, Florida Statutes, is amended to read:

553.792 Building permit application to local government.—

(1) Within 10 days of an applicant submitting an application to the local government, the local government shall advise the applicant what information, if any, is needed to deem the application properly completed in compliance with the filing requirements published by the local government. If the local government does not provide written notice that the applicant has not

submitted the properly completed application, the application shall be automatically deemed properly completed and accepted. Within 45 days after receiving a completed application, a local government must notify an applicant if additional information is required for the local government to determine the sufficiency of the application, and shall specify the additional information that is required. The applicant must submit the additional information to the local government or request that the local government act without the additional information. While the applicant responds to the request for additional information, the 120-day period described in this subsection ~~(2)~~ is tolled. Both parties may agree to a reasonable request for an extension of time, particularly in the event of a force major or other extraordinary circumstance. The local government must approve, approve with conditions, or deny the application within 120 days following receipt of a completed application.

Reviser's note.—Amended to correct a reference and improve clarity. Section 553.792(2) does not reference a 120-day period for action on an application; subsection (1) does require local government action on an application within 120 days following receipt of a completed application.

Section 64. Paragraph (a) of subsection (7) of section 553.80, Florida Statutes, is amended to read:

553.80 Enforcement.—

(7) The governing bodies of local governments may provide a schedule of reasonable fees, as authorized by s. 125.56(2) or s. 166.222 and this section, for enforcing this part. These fees, and any fines or investment earnings related to the fees, shall be used solely for carrying out the local government's responsibilities in enforcing the Florida Building Code. When providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities. Any unexpended balances shall be carried forward to future years for allowable activities or shall be refunded at the discretion of the local government. The basis for a fee structure for allowable activities shall relate to the level of service provided by the local government. Fees charged shall be consistently applied.

(a) As used in this subsection, the phrase "enforcing the Florida Building Code" includes the direct costs and reasonable indirect costs associated with review of building plans, building inspections, reinspections, and building permit processing; building code enforcement; and fire inspections associated with new construction. The phrase may also include training costs associated with the enforcement of the Florida Building Code and enforcement action pertaining to unlicensed contractor activity to the extent not funded by other user fees.

Reviser's note.—Amended to confirm the insertion by the editors of the word "and" following the word "reinspections" to improve clarity.

Section 65. Subsections (3) and (4) of section 553.842, Florida Statutes, are amended to read:

553.842 Product evaluation and approval.—

(3) Products or methods or systems of construction that require approval under s. 553.77, that have standardized testing or comparative or rational analysis methods established by the code, and that are certified by an approved product evaluation entity, testing laboratory, or certification agency as complying with the standards specified by the code shall be approved for statewide use. Products required to be approved for statewide use shall be approved by one of the methods established in subsection (5) ~~(6)~~ without further evaluation.

(4) Products or methods or systems of construction requiring approval under s. 553.77 must be approved by one of the methods established in subsection (5) ~~or subsection (6)~~ before their use in construction in this state. Products may be approved by the commission for statewide use. Notwithstanding a local government's authority to amend the Florida Building Code as provided in this act, statewide approval shall preclude local jurisdictions from requiring further testing, evaluation, or submission of other evidence as a condition of using the product so long as the product is being used consistent with the conditions of its approval.

Reviser's note.—Amended to conform to the deletion of former s. 553.842(5) and the consequent redesignation of subsection (6) as subsection (5) by s. 16, ch. 2005-147, Laws of Florida.

Section 66. Paragraph (f) of subsection (1) of section 553.8425, Florida Statutes, is amended to read:

553.8425 Local product approval.—

(1) For local product approval, products or systems of construction shall demonstrate compliance with the structural windload requirements of the Florida Building Code through one of the following methods:

(f) Designation of compliance with a prescriptive, material standard adopted by the commission by rule under s. 553.842(15) ~~553.842(16)~~.

Reviser's note.—Amended to conform to the location of material relating to adoption of a rule listing prescriptive material standards in s. 553.842(15); s. 553.842(16) does not exist.

Section 67. Subsection (6) of section 556.102, Florida Statutes, is amended to read:

556.102 Definitions.—As used in this act:

(6) "Excavate" or "excavation" means any manmade cut, cavity, trench, or depression in the earth's surface, formed by removal of earth, intended to change the grade or level of land, or intended to penetrate or disturb the surface of the earth, including land beneath the waters of the state, as defined in s. 373.019(20) ~~373.019(17)~~, and the term includes pipe bursting and directional drilling or boring from one point to another point beneath the surface of the earth, or other trenchless technologies.

Reviser's note.—Amended to conform to the redesignation of s. 373.019(17), defining "water" or "waters of the state," as s. 373.019(20) by s. 1, ch. 2005-291, Laws of Florida.

Section 68. Paragraph (c) of subsection (2) of section 570.076, Florida Statutes, is amended to read:

570.076 Environmental Stewardship Certification Program.—The department may, by rule, establish the Environmental Stewardship Certification Program consistent with this section. A rule adopted under this section must be developed in consultation with state universities, agricultural organizations, and other interested parties.

(2) The department shall provide an agricultural certification under this program for implementation of one or more of the following criteria:

(c) Best management practices adopted by rule pursuant to s. 403.067(7)(c) ~~403.067(7)(d)~~ or s. 570.085(2).

Reviser's note.—Amended to conform a reference to the location of material relating to best management practices in s. 403.067(7)(c); s. 403.067(7)(d) was amended and merged into paragraph (c) by s. 6, ch. 2005-166, Laws of Florida, and s. 13, ch. 2005-291, Laws of Florida.

Section 69. Paragraph (a) of subsection (1) of section 608.4355, Florida Statutes, is amended to read:

608.4355 Notice of intent to demand payment.—

(1) If a proposed appraisal event is submitted to a vote at a members' meeting, or is submitted to a member pursuant to a consent vote, a member who is entitled to and who wishes to assert appraisal rights with respect to any class or series of membership interests:

(a) Must deliver to a manager or managing member of the limited liability company before the vote is taken, or within 20 days after receiving the notice pursuant to s. 608.4354(3) ~~608.4353(3)~~ if action is to be taken without a member meeting, written notice of such person's intent to demand payment if the proposed appraisal event is effectuated.

Reviser's note.—Amended to conform to the fact that s. 608.4353 does not contain a subsection (3) and s. 608.4354(3) relates to notice in a situation where an appraisal event is to be approved other than by a member meeting.

Section 70. Subsection (6) of section 608.4381, Florida Statutes, is amended to read:

608.4381 Action on plan of merger.—

(6) A plan of merger may provide for the manner, if any, in which the plan of merger may be amended at any time before the effective date of the merger, except after the approval of the plan of merger by the members of a limited liability company that is a party to the merger, the plan of merger may not be amended to:

(a) Change the amount or kind of interests, partnership interests, shares, obligations, other securities, cash, rights, or any other property to be received by the members of such limited liability company in exchange for or on conversion of their interests;

(b) If the surviving entity is a limited liability company, change any term of the articles of organization or the operating agreement of the surviving entity, except for changes that otherwise could be adopted without the approval of the members of the surviving entity;

(c) If the surviving entity is not a limited liability company, change any term of the articles of incorporation or comparable governing document of the surviving entity, except for changes that otherwise could be adopted by the board of directors or comparable representatives of the surviving entity; or

(d) Change any of the terms and conditions of the plan of merger if any such change, alone or in the aggregate, would materially and adversely affect the members, or any class or group of members, of such limited liability company.

If an amendment to a plan of merger is made in accordance <u>with</u> the plan and articles of merger have been filed with the Department of State, an amended certificate of merger executed by each limited liability company and other business entity that is a party to the merger shall be filed with the Department of State prior to the effective date of the merger.

Reviser's note.—Amended to confirm the insertion by the editors of the word "with" following the word "accordance" to improve clarity.

Section 71. Subsection (5) of section 620.1108, Florida Statutes, is amended to read:

620.1108 Name.—

(5) Subject to s. <u>620.1905</u> ~~620.905~~, this section applies to any foreign limited partnership transacting business in this state, having a certificate of authority to transact business in this state, or applying for a certificate of authority.

Reviser's note.—Amended to confirm the substitution by the editors of a reference to s. 620.1905 for a reference to s. 620.905, which does not exist. Section 620.1905 relates to noncomplying names of foreign limited partnerships.

Section 72. Paragraph (b) of subsection (2) of section 620.1110, Florida Statutes, is amended to read:

620.1110 Effect of partnership agreement; nonwaivable provisions.—

(2) A partnership agreement may not:

(b) Vary the law applicable to a limited partnership under s. <u>620.1106</u> ~~620.106~~;

Reviser's note.—Amended to confirm the substitution by the editors of a reference to s. 620.1106 for a reference to s. 620.106, which was repealed by s. 25, ch. 2005-267, Laws of Florida. Section 620.1106 relates to governing law.

Section 73. Paragraphs (g) and (k) of subsection (1) of section 620.1204, Florida Statutes, are amended to read:

620.1204 Signing of records.—

(1) Each record delivered to the Department of State for filing pursuant to this act must be signed in the following manner:

(g) A certificate of dissolution, a statement of termination, and a certificate of revocation of dissolution must be signed by all general partners listed in the certificate of limited partnership or, if the certificate of limited partnership of a dissolved limited partnership lists no general partners, by the person appointed pursuant to s. 620.1803(3) or (4) ~~620.803(3) or (4)~~ to wind up the dissolved limited partnership's activities.

(k) A statement by a person pursuant to s. 620.1605(2) ~~620.1605(1)(d)~~ stating that the person has dissociated as a general partner must be signed by that person.

Reviser's note.—Paragraph (1)(g) is amended to confirm the substitution by the editors of a reference to s. 620.1803(3) or (4) for a reference to s. 620.803(3) or (4). Section 620.803 does not exist; s. 620.1803(3) and (4) relate to appointment of a person to wind up limited partnership activities. Paragraph (1)(k) is amended to correct a reference and conform to context; s. 620.1605(1)(d) does not exist; s. 620.1605(2) relates to a statement of dissociation.

Section 74. Paragraph (a) of subsection (3) of section 620.1207, Florida Statutes, is amended to read:

620.1207 Correcting filed record.—

(3) When filed by the Department of State, a statement of correction is effective retroactively as of the effective date of the record the statement corrects, but the statement is effective when filed:

(a) For the purposes of s. 620.1103(3) and (4) ~~620.103(3) and (4)~~.

Reviser's note.—Amended to confirm the substitution by the editors of a reference to s. 620.1103(3) and (4) for a reference to s. 620.103(3) and (4). Section 620.103 was repealed by s. 25, ch. 2005-267, Laws of Florida; s. 620.1103(3) and (4) relate to documents serving as notice of limited partnership and partner status.

Section 75. Subsection (9) of section 620.1407, Florida Statutes, is amended to read:

620.1407 Right of general partner and former general partner to information.—

(9) The rights under this section do not extend to a person as transferee, but the rights under subsection (3) of a person dissociated as a general partner may be exercised by the legal representative of an individual who dissociated as a general partner under s. 620.1603(7)(b) or (c) ~~620.603(7)(b) or (c)~~.

Reviser's note.—Amended to confirm the substitution by the editors of a reference to s. 620.1603(7)(b) or (c) for a reference to s. 620.603(7)(b) or (c). Section 620.603 does not exist; s. 620.1603(7)(b) and (c) relate to dissociation of a general partner by virtue of guardianship or incapacity, respectively.

Section 76. Paragraph (b) of subsection (2) of section 620.2118, Florida Statutes, is amended to read:

620.2118 Appraisal notice and form.—

(2) The appraisal notice must be sent no earlier than the date the appraisal event became effective and no later than 10 days after such date and must:

(b) State:

1. Where the form described in paragraph (a) must be sent.

2. A date by which the limited partnership must receive the form, which date may not be fewer than 40 or more than 60 days after the date the appraisal notice and form described in this subsection are sent, and state that the limited partner shall have waived the right to demand appraisal with respect to the limited partner interests unless the form is received by the limited partnership by such specified date.

3. In the case of limited partner interest represented by a certificate, the location at which certificates for such certificated partnership interests must be deposited, if that action is required by the limited partnership, and the date by which those certificates must be deposited, which date may not be earlier than the date for receiving the required form under subparagraph 2.

4. The limited partnership's estimate of the fair value of the limited partner interests.

5. An offer to each limited partner who is entitled to appraisal rights to pay the limited partnership's estimate of fair value set forth in subparagraph 4.

6. That, if requested in writing, the limited partnership will provide to the limited partner so requesting, within 10 days after the date specified in subparagraph 2., the number of limited partners who return the forms by the specified date and the total number of limited partner interests owned by them.

7. The date by which the notice to withdraw under s. 620.2119 ~~620.1119~~ must be received, which date must be within 20 days after the date specified in subparagraph 2.

Reviser's note.—Amended to correct a reference and conform to context. Section 620.1119 does not exist; s. 620.2119 relates to the right to withdraw.

Section 77. Subsection (1) of section 620.2120, Florida Statutes, is amended to read:

620.2120 Limited partner's acceptance of limited partnership's offer.—

(1) If the limited partner states on the form provided in s. 620.2118(1) that the limited partner accepts the offer of the limited partnership to pay the limited partnership's estimated fair value for the limited partner interest, the limited partnership shall make such payment to the limited partner within 90 days after the limited partnership's receipt of the items required by s. 620.2119(1) ~~620.1119(1)~~.

Reviser's note.—Amended to confirm the substitution by the editors of a reference to s. 620.2119(1) for a reference to s. 620.1119(1). Section 620.1119 does not exist; s. 620.2119(1) relates to deposit of a limited partner's certificates and corresponding loss of rights as a limited partner.

Section 78. Paragraphs (d) and (f) of subsection (3) of section 620.2204, Florida Statutes, are amended to read:

620.2204 Application to existing relationships.—

(3) With respect to a limited partnership formed before January 1, 2006, the following rules apply except as the partners otherwise elect in the manner provided in the partnership agreement or by law for amending the partnership agreement:

(d) The provisions of s. 620.1603(4) ~~620.603(4)~~ do not apply.

(f) The provisions of s. 620.1801(1)(c) ~~620.1801(3)~~ do not apply and the connection between a person's dissociation as a general partner and the dissolution of the limited partnership is the same as existed immediately before January 1, 2006.

Reviser's note.—Paragraph (3)(d) is amended to confirm the substitution by the editors of a reference to s. 620.1603(4) for a reference to s. 620.603(4). Section 620.603 does not exist; s. 620.1603(4) relates to expulsion of a general partner. Paragraph (3)(f) is amended to confirm the substitution by the editors of a reference to s. 620.1801(1)(c) for a reference to s. 620.1801(3). Section 620.1801(3) does not exist; s. 620.1801(1)(c) relates to the dissociation of a general partner and consent to continue or dissolve the limited partnership.

Section 79. Subsection (15) of section 620.8101, Florida Statutes, is amended to read:

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

(15) "Statement" means a statement of partnership authority under s. 620.8303, a statement of denial under s. 620.8304, a statement of dissociation under s. 620.8704, a statement of dissolution under s. 620.8805, a

statement of merger under s. 620.8918 ~~620.8907~~, a statement of qualification under s. 620.9001, a statement of foreign qualification under s. 620.9102, or an amendment or cancellation of any of the foregoing.

Reviser's note.—Amended to conform to the repeal of s. 620.8907 by s. 25, ch. 2005-267, Laws of Florida. Filings required for merger are now covered in s. 620.8918, including a reference to the statement of merger.

Section 80. Subsection (1) of section 620.8702, Florida Statutes, is amended to read:

620.8702 Dissociated partner's power to bind and liability to partnership.—

(1) For 1 year after a partner dissociates without resulting in a dissolution and winding up of the partnership business, the partnership, including a surviving partnership under ss. 620.8911-620.8923 ~~620.8901-620.8908~~, is bound by an act of the dissociated partner which would have bound the partnership under s. 620.8301 before dissociation only if, at the time of entering into the transaction, the other party:

(a) Reasonably believed that the dissociated partner was then a partner;

(b) Did not have notice of the partner's dissociation; and

(c) Is not deemed to have had knowledge under s. 620.8303(4) or notice under s. 620.8704(4).

Reviser's note.—Amended to conform to the repeal of ss. 620.8901-620.8908 relating to conversion of a partnership to a limited partnership; conversion procedures are now covered in ss. 620.8911-620.8923.

Section 81. Subsection (2) of section 620.8703, Florida Statutes, is amended to read:

620.8703 Dissociated partner's liability to other persons.—

(2) A partner who dissociates without resulting in a dissolution and winding up of the partnership business is liable as a partner to any other party to a transaction entered into by the partnership, or a surviving partnership under ss. 620.8911-620.8923 ~~620.8901-620.8908~~, within 1 year after the partner's dissociation only if the partner is liable for the obligation under s. 620.8306 and, at the time of entering into the transaction, the other party:

(a) Reasonably believed that the dissociated partner was then a partner;

(b) Did not have notice of the partner's dissociation; and

(c) Is not deemed to have had knowledge under s. 620.8303(4) or notice under s. 620.8704(4).

Reviser's note.—Amended to conform to the repeal of ss. 620.8901-620.8908 relating to conversion of a partnership to a limited partnership; conversion procedures are now covered in ss. 620.8911-620.8923.

Section 82. Paragraph (a) of subsection (7) of section 624.501, Florida Statutes, is amended to read:

624.501 Filing, license, appointment, and miscellaneous fees.—The department, commission, or office, as appropriate, shall collect in advance, and persons so served shall pay to it in advance, fees, licenses, and miscellaneous charges as follows:

(7) Life insurance agents.

(a) Agent's original appointment and biennial renewal or continuation thereof, each insurer or agent making an appointment:

Appointment <u>fee</u>	$42.00
State tax	12.00
County tax	6.00
Total	$60.00

Reviser's note.—Amended to confirm the reinsertion by the editors of the word "fee" following the word "Appointment" to correct a coding error and conform to context.

Section 83. Paragraph (b) of subsection (5) of section 624.509, Florida Statutes, is amended to read:

624.509 Premium tax; rate and computation.—

(5)

(b) For purposes of this subsection:

1. The term "salaries" does not include amounts paid as commissions.

2. The term "employees" does not include independent contractors or any person whose duties require that the person hold a valid license under the Florida Insurance Code, except adjusters, managing general agents, and service representatives, as defined in s. 626.015.

3. The term "net tax" means the tax imposed by this section after applying the calculations and credits set forth in subsection (4).

4. An affiliated group of corporations that created a service company within its affiliated group on July 30, 2002, shall allocate the salary of each service company employee covered by contracts with affiliated group members to the companies for which the employees perform services. The salary allocation is based on the amount of time during the tax year that the individual employee spends performing services or otherwise working for each company over the total amount of time the employee spends performing services or otherwise working for all companies. The total amount of salary allocated to an insurance company within the affiliated group shall be included as that insurer's employee salaries for purposes of this section.

a. Except as provided in subparagraph (a)2. ~~subparagraph 2.~~, the term "affiliated group of corporations" means two or more corporations that are entirely owned by a single corporation and that constitute an affiliated group of corporations as defined in s. 1504(a) of the Internal Revenue Code.

b. The term "service company" means a separate corporation within the affiliated group of corporations whose employees provide services to affiliated group members and which are treated as service company employees for unemployment compensation and common law purposes. The holding company of an affiliated group may not qualify as a service company. An insurance company may not qualify as a service company.

c. If an insurance company fails to substantiate, whether by means of adequate records or otherwise, its eligibility to claim the service company exception under this section, or its salary allocation under this section, no credit shall be allowed.

5. A service company that is a subsidiary of a mutual insurance holding company, which mutual insurance holding company was in existence on or before January 1, 2000, shall allocate the salary of each service company employee covered by contracts with members of the mutual insurance holding company system to the companies for which the employees perform services. The salary allocation is based on the ratio of the amount of time during the tax year which the individual employee spends performing services or otherwise working for each company to the total amount of time the employee spends performing services or otherwise working for all companies. The total amount of salary allocated to an insurance company within the mutual insurance holding company system shall be included as that insurer's employee salaries for purposes of this section. However, this subparagraph does not apply for any tax year unless funds sufficient to offset the anticipated salary credits have been appropriated to the General Revenue Fund prior to the due date of the final return for that year.

a. The term "mutual insurance holding company system" means two or more corporations that are subsidiaries of a mutual insurance holding company and in compliance with part IV of chapter 628.

b. The term "service company" means a separate corporation within the mutual insurance holding company system whose employees provide services to other members of the mutual insurance holding company system and are treated as service company employees for unemployment compensation and common-law purposes. The mutual insurance holding company may not qualify as a service company.

c. If an insurance company fails to substantiate, whether by means of adequate records or otherwise, its eligibility to claim the service company exception under this section, or its salary allocation under this section, no credit shall be allowed.

Reviser's note.—Amended to correct a reference and conform to context; subparagraph (5)(b)2. does not reference affiliated groups of corporations; they are covered in subparagraph (5)(a)2.

Section 84. Paragraph (d) of subsection (3) of section 624.91, Florida Statutes, is repealed.

Reviser's note.—The cited paragraph, which authorizes certain enrollees in the Healthy Kids program as of January 31, 2004, to remain eligible until January 1, 2005, has served its purpose.

Section 85. Paragraph (d) of subsection (2) of section 626.8411, Florida Statutes, is repealed.

Reviser's note.—The cited paragraph, which provides that s. 626.592 does not apply to title insurance agents or agencies, is obsolete; s. 626.592 was repealed by s. 32, ch. 2005-257, Laws of Florida.

Section 86. Paragraph (b) of subsection (4) of section 626.9911, Florida Statutes, is amended to read:

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

(4) "Life expectancy provider" means a person who determines, or holds himself or herself out as determining, life expectancies or mortality ratings used to determine life expectancies:

(b) In connection with a viatical settlement investment, pursuant to s. 517.021(23) ~~517.021(22)~~; or

Reviser's note.—Amended to correct a reference and conform to context. Section 517.021(22) defines "underwriter"; s. 517.021(23) defines "viatical settlement investment."

Section 87. Paragraph (d) of subsection (6) of section 627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(d)1. It is the intent of the Legislature that the rates for coverage provided by the corporation be actuarially sound and not competitive with approved rates charged in the admitted voluntary market, so that the corporation functions as a residual market mechanism to provide insurance only when the insurance cannot be procured in the voluntary market. Rates shall include an appropriate catastrophe loading factor that reflects the actual catastrophic exposure of the corporation.

2. For each county, the average rates of the corporation for each line of business for personal lines residential policies excluding rates for wind-only policies shall be no lower than the average rates charged by the insurer that had the highest average rate in that county among the 20 insurers with the greatest total direct written premium in the state for that line of business in the preceding year, except that with respect to mobile home coverages, the average rates of the corporation shall be no lower than the average rates charged by the insurer that had the highest average rate in that county

among the 5 insurers with the greatest total written premium for mobile home owner's policies in the state in the preceding year.

3. Rates for personal lines residential wind-only policies must be actuarially sound and not competitive with approved rates charged by authorized insurers. Corporation rate manuals shall include a rate surcharge for seasonal occupancy. To ensure that personal lines residential wind-only rates are not competitive with approved rates charged by authorized insurers, the corporation, in conjunction with the office, shall develop a wind-only ratemaking methodology, which methodology shall be contained in each rate filing made by the corporation with the office. If the office determines that the wind-only rates or rating factors filed by the corporation fail to comply with the wind-only ratemaking methodology provided for in this subsection, it shall so notify the corporation and require the corporation to amend its rates or rating factors to come into compliance within 90 days of notice from the office.

4. For the purposes of establishing a pilot program to evaluate issues relating to the availability and affordability of insurance in an area where historically there has been little market competition, the provisions of subparagraph 2. do not apply to coverage provided by the corporation in Monroe County if the office determines that a reasonable degree of competition does not exist for personal lines residential policies. The provisions of subparagraph 3. do not apply to coverage provided by the corporation in Monroe County if the office determines that a reasonable degree of competition does not exist for personal lines residential policies in the area of that county which is eligible for wind-only coverage. In this county, the rates for personal lines residential coverage shall be actuarially sound and not excessive, inadequate, or unfairly discriminatory and are subject to the other provisions of the paragraph and s. 627.062. The commission shall adopt rules establishing the criteria for determining whether a reasonable degree of competition exists for personal lines residential policies in Monroe County. By March 1, 2006, the office shall submit a report to the Legislature providing an evaluation of the implementation of the pilot program affecting Monroe County.

5. Rates for commercial lines coverage shall not be subject to the requirements of subparagraph 2., but shall be subject to all other requirements of this paragraph and s. 627.062.

6. Nothing in this paragraph shall require or allow the corporation to adopt a rate that is inadequate under s. 627.062.

7. The corporation shall certify to the office at least twice annually that its personal lines rates comply with the requirements of subparagraphs 1. and 2. If any adjustment in the rates or rating factors of the corporation is necessary to ensure such compliance, the corporation shall make and implement such adjustments and file its revised rates and rating factors with the office. If the office thereafter determines that the revised rates and rating factors fail to comply with the provisions of subparagraphs 1. and 2., it shall notify the corporation and require the corporation to amend its rates or rating factors in conjunction with its next rate filing. The office must notify the corporation by electronic means of any rate filing it approves for any insurer among the insurers referred to in subparagraph 2.

8. In addition to the rates otherwise determined pursuant to this paragraph, the corporation shall impose and collect an amount equal to the premium tax provided for in s. 624.509 to augment the financial resources of the corporation.

9.a. To assist the corporation in developing additional ratemaking methods to assure compliance with subparagraphs 1. and 5. ~~4.~~, the corporation shall appoint a rate methodology panel consisting of one person recommended by the Florida Association of Insurance Agents, one person recommended by the Professional Insurance Agents of Florida, one person recommended by the Florida Association of Insurance and Financial Advisors, one person recommended by the insurer with the highest voluntary market share of residential property insurance business in the state, one person recommended by the insurer with the second-highest voluntary market share of residential property insurance business in the state, one person recommended by an insurer writing commercial residential property insurance in this state, one person recommended by the Office of Insurance Regulation, and one board member designated by the board chairman, who shall serve as chairman of the panel.

b. By January 1, 2004, the rate methodology panel shall provide a report to the corporation of its findings and recommendations for the use of additional ratemaking methods and procedures, including the use of a rate equalization surcharge in an amount sufficient to assure that the total cost of coverage for policyholders or applicants to the corporation is sufficient to comply with subparagraph 1.

c. Within 30 days after such report, the corporation shall present to the President of the Senate, the Speaker of the House of Representatives, the minority party leaders of each house of the Legislature, and the chairs of the standing committees of each house of the Legislature having jurisdiction of insurance issues, a plan for implementing the additional ratemaking methods and an outline of any legislation needed to facilitate use of the new methods.

d. The plan must include a provision that producer commissions paid by the corporation shall not be calculated in such a manner as to include any rate equalization surcharge. However, without regard to the plan to be developed or its implementation, producer commissions paid by the corporation for each account, other than the quota share primary program, shall remain fixed as to percentage, effective rate, calculation, and payment method until January 1, 2004.

10. By January 1, 2004, the corporation shall develop a notice to policyholders or applicants that the rates of Citizens Property Insurance Corporation are intended to be higher than the rates of any admitted carrier and providing other information the corporation deems necessary to assist consumers in finding other voluntary admitted insurers willing to insure their property.

Reviser's note.—Amended to conform to the redesignation of subparagraph (6)(d)4. as subparagraph (6)(d)5. by s. 7, ch. 2005-111, Laws of Florida.

Section 88. Paragraph (d) of subsection (6) of section 627.3511, Florida Statutes, is amended to read:

627.3511 Depopulation of Citizens Property Insurance Corporation.—

(6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

(d) The calculation of an insurer's regular assessment liability under s. 627.351(6)(b)3.a. and b. ~~627.351(b)3.a. and b.~~, but not emergency assessments collected from policyholders pursuant to s. 627.351(6)(b)3.d., shall, with respect to commercial residential policies removed from the corporation under an approved take-out plan, exclude such removed policies for the succeeding 3 years, as follows:

1. In the first year following removal of the policies, the policies are excluded from the calculation to the extent of 100 percent.

2. In the second year following removal of the policies, the policies are excluded from the calculation to the extent of 75 percent.

3. In the third year following removal of the policies, the policies are excluded from the calculation to the extent of 50 percent.

Reviser's note.—Amended to correct a reference and conform to context. The cite to s. 627.351(b)3.a. and b. does not reference the subsection within s. 627.351 where the referenced material is located; based on context, a reference to s. 627.351(6)(b)3.a. and b., relating to levy of assessments on assessable insurers with specified deficits, was substituted for the incomplete cite.

Section 89. Subsection (1) of section 627.6418, Florida Statutes, is amended to read:

627.6418 Coverage for mammograms.—

(1) An accident or health insurance policy issued, amended, delivered, or renewed in this state must provide coverage for at least the following:

(a) A baseline mammogram for any woman who is 35 years of age or older, but younger than 40 years of age.

(b) A mammogram every 2 years for any woman who is 40 years of age or older, but younger than 50 years of age, or more frequently based on the patient's physician's recommendation.

(c) A mammogram every year for any woman who is 50 years of age or older.

(d) One or more mammograms a year, based upon a physician's recommendation, for any woman who is at risk for breast cancer because of a personal or family history of breast cancer, because of having a history of biopsy-proven benign breast disease, because of having a mother, sister, or daughter who has or has had breast cancer, or because a woman has not given birth before the age of 30.

~~It is the intent of the Legislature that, when practice parameters for the delivery of mammography services are developed pursuant to s. 408.02(7), the Legislature review the requirements of this section and conform to the practice parameters.~~

Reviser's note.—Amended to delete a provision that has served its purpose. The practice parameters to be reviewed were to be developed pursuant to s. 408.02(7), which was repealed by s. 42, ch. 2004-297, Laws of Florida.

Section 90. Subsection (1) of section 627.6613, Florida Statutes, is amended to read:

627.6613 Coverage for mammograms.—

(1) A group, blanket, or franchise accident or health insurance policy issued, amended, delivered, or renewed in this state must provide coverage for at least the following:

(a) A baseline mammogram for any woman who is 35 years of age or older, but younger than 40 years of age.

(b) A mammogram every 2 years for any woman who is 40 years of age or older, but younger than 50 years of age, or more frequently based on the patient's physician's recommendation.

(c) A mammogram every year for any woman who is 50 years of age or older.

(d) One or more mammograms a year, based upon a physician's recommendation, for any woman who is at risk for breast cancer because of a personal or family history of breast cancer, because of having a history of biopsy-proven benign breast disease, because of having a mother, sister, or daughter who has or has had breast cancer, or because a woman has not given birth before the age of 30.

~~It is the intent of the Legislature that, when practice parameters for the delivery of mammography services are developed pursuant to s. 408.02(7), the Legislature review the requirements of this section and conform to the practice parameters.~~

Reviser's note.—Amended to delete a provision that has served its purpose. The practice parameters to be reviewed were to be developed pursuant to s. 408.02(7), which was repealed by s. 42, ch. 2004-297, Laws of Florida.

Section 91. Section 627.711, Florida Statutes, is amended to read:

627.711 Notice of premium discounts for hurricane loss mitigation.—Using a form prescribed by the Office of Insurance Regulation, the insurer shall clearly notify the applicant or policyholder of any personal lines residential property insurance policy, at the time of the issuance of the policy and at each renewal, of the availability and the range of each premium discount, credit, other rate differential, or reduction in deductibles for properties on which fixtures or construction techniques demonstrated to reduce

the amount of loss in a windstorm can be or have been installed or implemented. The prescribed form shall describe generally what actions the policyholders may be able to take to reduce their windstorm premium. The prescribed form and a list of such ranges approved by the office for each insurer licensed in the state and providing such discounts, credits, other rate differentials, or reductions in deductibles for properties described in this subsection shall be available for electronic viewing and download from the Department of Financial Services' or the Office of Insurance Regulation's Internet website. The Financial Services Commission may adopt rules to implement this subsection.

Reviser's note.—Amended to confirm the insertion by the editors of the word "be" following the word "can" to improve clarity.

Section 92. Paragraph (a) of subsection (5) of section 627.7295, Florida Statutes, is amended to read:

627.7295 Motor vehicle insurance contracts.—

(5)(a) A licensed general lines agent may charge a per-policy fee not to exceed $10 to cover the administrative costs of the agent associated with selling the motor vehicle insurance policy if the policy covers only personal injury protection coverage as provided by s. 627.736 and property damage liability coverage as provided by s. 627.7275 and if no other insurance is sold or issued in conjunction with or collateral to the policy. The fee is not considered part of the premium.

Reviser's note.—Amended to reinsert language inadvertently deleted during the 2005 editorial process.

Section 93. Section 633.026, Florida Statutes, is amended to read:

633.026 Informal interpretations of the Florida Fire Prevention Code.—The Division of State Fire Marshal shall by rule establish an informal process of rendering nonbinding interpretations of the Florida Fire Prevention Code. The Division of State Fire Marshal may contract with and refer interpretive issues to a nonprofit organization that has experience in interpreting and enforcing the Florida Fire Prevention Code. The Division of State Fire Marshal shall immediately implement the process prior to the completion of formal rulemaking. It is the intent of the Legislature that the Division of State Fire Marshal create a process to refer questions to a small group of individuals certified under s. 633.081(2), to which a party can pose questions regarding the interpretation of code provisions. It is the intent of the Legislature that the process provide for the expeditious resolution of the issues presented and publication of the resulting interpretation on the website of the Division of State Fire Marshal. It is the intent of the Legislature that this program be similar to the program established by the Florida Building Commission in s. 553.775(3)(g) ~~553.77(7)~~. Such interpretations shall be advisory only and nonbinding on the parties or the State Fire Marshal. In order to administer this section, the department may adopt by rule and impose a fee for nonbinding interpretations, with payment made directly to the third party. The fee may not exceed $150 for each request for a review or interpretation.

Reviser's note.—Amended to conform to the deletion of s. 553.77(7) by s. 8, ch. 2005-147, Laws of Florida, and the addition of substantially similar language at s. 553.775(3)(g) by s. 9, ch. 2005-147.

Section 94. Subsection (3) of section 633.539, Florida Statutes, is amended to read:

633.539 Requirements for installation, inspection, and maintenance of fire protection systems.—

(3) For contracts written after June 30, 2005, the contractor who installs the underground piping from the point of service is responsible for completing the installation to the aboveground connection flange, which by definition in this chapter is no more than 1 foot above the finished floor, before completing the Contractor's Material and Test Certificate for Underground Piping document. Aboveground contractors may not complete the Contractor's Material and Test Certificate for Underground Piping document for underground piping or portions thereof which have been installed by others.

Reviser's note.—Amended to confirm the insertion by the editors of the word "piping" following the word "underground" to improve clarity.

Section 95. Section 634.021, Florida Statutes, is amended to read:

634.021 Powers of department, commission, and office; rules.—The office shall administer this act and the commission may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this act related to motor vehicle service agreement companies and motor vehicle service agreements. The department shall administer this act and may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of this act related to sales representatives.

Reviser's note.—Amended to improve clarity and conform to the designation of companies that provide motor vehicle service agreement products throughout part I of chapter 634.

Section 96. Paragraph (a) of subsection (13) of section 634.401, Florida Statutes, is amended to read:

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

(13) "Service warranty" means any warranty, guaranty, extended warranty or extended guaranty, maintenance service contract equal to or greater than 1 year in length or which does not meet the exemption in paragraph (a), contract agreement, or other written promise for a specific duration to perform the repair, replacement, or maintenance of a consumer product, or for indemnification for repair, replacement, or maintenance, for operational or structural failure due to a defect in materials or workmanship, normal wear and tear, power surge, or accidental damage from handling in return for the payment of a segregated charge by the consumer; however:

(a) Maintenance service contracts written for less than 1 year which do not contain provisions for indemnification and which do not provide a dis-

count to the consumer for any combination of parts and labor in excess of 20 percent during the effective period of such contract, motor vehicle service agreements, transactions exempt under s. 624.125, and home warranties subject to regulation under part ~~parts I and~~ II of this chapter are excluded from this definition;

Reviser's note.—Amended to correct a reference and conform to context. Part II of chapter 634 regulates home warranty associations; part I of chapter 634 regulates motor vehicle service agreement companies.

Section 97. Subsection (2) of section 636.223, Florida Statutes, is amended to read:

636.223 Administrative penalty.—In lieu of suspending or revoking a certificate of authority whenever any discount medical plan organization has been found to have violated any provision of this part, the office may:

(2) Impose a monetary penalty of not less than ~~that~~ $100 for each violation, but not to exceed an aggregate penalty of $75,000.

Reviser's note.—Amended to confirm the substitution by the editors of the word "than" for the word "that" to conform to context and improve clarity.

Section 98. Paragraph (a) of subsection (40) of section 641.31, Florida Statutes, is amended to read:

641.31 Health maintenance contracts.—

(40)(a) Any group rate, rating schedule, or rating manual for a health maintenance organization policy, which provides creditable coverage as defined in s. 627.6561(5), filed with the office shall provide for an appropriate rebate of premiums paid in the last policy year, contract year, or calendar year when the majority of members of a health plan are enrolled in and have maintained participation in any health wellness, maintenance, or improvement program offered by the group contract holder. The group must provide evidence of demonstrative maintenance or improvement of his or her health status as determined by assessments of agreed-upon health status indicators between the group and the health insurer, including, but not limited to, reduction in weight, body mass index, and smoking cessation. Any rebate provided by the health maintenance organization is presumed to be appropriate unless credible data demonstrates otherwise, or unless the rebate program requires the insured to incur costs to qualify for the rebate which equals or exceeds the value of the rebate but the rebate may not exceed 10 percent of paid premiums.

Reviser's note.—Amended to confirm the insertion by the editors of the word "have" following the word "and" to improve clarity.

Section 99. Subsection (4) of section 658.12, Florida Statutes, is amended to read:

658.12 Definitions.—Subject to other definitions contained in the financial institutions codes and unless the context otherwise requires:

(4) "Branch" or "branch office" of a bank means any office or place of business of a bank, other than its main office and the facilities and operations authorized by ss. 658.26(4) ~~658.26(5)~~, 658.65, and 660.33, at which deposits are received, checks are paid, or money is lent. With respect to a bank which has a trust department, the terms "branch" and "branch office" have the meanings herein ascribed to a branch or a branch office of a trust company. "Branch" or "branch office" of a trust company means any office or place of business of a trust company, other than its main office and its trust service offices established pursuant to s. 660.33, where trust business is transacted with its customers.

Reviser's note.—Amended to conform to the redesignation of s. 658.26(5), relating to armored car services, to s. 658.26(4) by s. 15, ch. 2004-340, Laws of Florida, and s. 98, ch. 2004-390, Laws of Florida.

Section 100. Section 694.16, Florida Statutes, is amended to read:

694.16 Conveyances by merger or conversion of business entities.—As to any merger or conversion of business entities prior to June 15, 2000, the title to all real estate, or any interest therein, owned by a business entity that was a party to a merger or a conversion is vested in the surviving entity without reversion or impairment, notwithstanding the requirement of a deed which was previously required by s. 607.11101, s. 608.4383, former s. 620.204, former s. 620.8904, or former s. 620.8906.

Reviser's note.—Amended to conform to the repeal of ss. 620.204, 620.8904, and 620.8906 by s. 25, ch. 2005-267, Laws of Florida.

Section 101. Paragraph (b) of subsection (2) of section 721.13, Florida Statutes, is amended to read:

721.13 Management.—

(2)

(b) The managing entity shall invest the operating and reserve funds of the timeshare plan in accordance with s. 518.11(1); however, the managing entity shall give safety of capital greater weight than production of income. In no event shall the managing entity invest timeshare plan funds with a developer or with any entity that is not independent of any developer or any managing entity within the meaning of s. 721.05(22) ~~721.05(20)~~, and in no event shall the managing entity invest timeshare plan funds in notes and mortgages related in any way to the timeshare plan.

Reviser's note.—Amended to conform to the redesignation of s. 721.05(20), defining the term "managing entity," as s. 721.05(22) by s. 3, ch. 2004-279, Laws of Florida.

Section 102. Subsection (6) of section 732.103, Florida Statutes, is amended to read:

732.103 Share of other heirs.—The part of the intestate estate not passing to the surviving spouse under s. 732.102, or the entire intestate estate if there is no surviving spouse, descends as follows:

(6) If none of the foregoing, and if any of the descendants of the decedent's great-grandparents were Holocaust victims as defined in s. 626.9543(3)(a) ~~626.9543(3)(b)~~, including such victims in countries cooperating with the discriminatory policies of Nazi Germany, then to the lineal descendants of the great-grandparents. The court shall allow any such descendant to meet a reasonable, not unduly restrictive, standard of proof to substantiate his or her lineage. This subsection only applies to escheated property and shall cease to be effective for proceedings filed after December 31, 2004.

Reviser's note.—Amended to conform to the redesignation of s. 626.9543(3)(b) as s. 626.9543(3)(a) by s. 76, ch. 2004-390, Laws of Florida.

Section 103. Subsection (1) of section 739.104, Florida Statutes, is amended to read:

739.104 Power to disclaim; general requirements; when irrevocable.—

(1) A person may disclaim, in whole or in part, conditionally or unconditionally, any interest in or power over property, including a power of ~~or~~ appointment. A person may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim. A disclaimer shall be unconditional unless the disclaimant explicitly provides otherwise in the disclaimer.

Reviser's note.—Amended to conform to context.

Section 104. Subsection (1) and paragraph (d) of subsection (5) of section 765.101, Florida Statutes, are amended to read:

765.101 Definitions.—As used in this chapter:

(1) "Advance directive" means a witnessed written document or oral statement in which instructions are given by a principal or in which the principal's desires are expressed concerning any aspect of the principal's health care, and includes, but is not limited to, the designation of a health care surrogate, a living will, or an anatomical gift made pursuant to part V ~~X~~ of chapter 765 ~~732~~.

(5) "Health care decision" means:

(d) The decision to make an anatomical gift pursuant to part V ~~X~~ of chapter 765 ~~732~~.

Reviser's note.—Amended to conform to the transfer of material in former part X of chapter 732 to part V of chapter 765 pursuant to ch. 2001-226, Laws of Florida.

Section 105. Subsection (23) of section 774.203, Florida Statutes, is amended to read:

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

(23) "Qualified physician" means a medical doctor, who:

(a) Is a board-certified pathologist licensed to practice and actively practices in this country who performed services requested or authorized by a physician who:

1. Has conducted a physical examination of the exposed person or, if the person is deceased, has reviewed all available records relating to the exposed person's medical condition;

2. Is actually treating or has treated the exposed person, and has or had a doctor-patient relationship with the person; and

3. Is licensed to practice and actively practices in this country; or

(b) Is a board-certified oncologist, pulmonary specialist, or specialist in occupational and environmental medicine who:

1. Has conducted a physical examination of the exposed person or, if the person is deceased, has reviewed all available records relating to the exposed person's medical condition;

2. Is actually treating or has treated the exposed person, and has or had a doctor-patient relationship with the person; and

3. Is licensed to practice and actively practices in this country.

Reviser's note.—Amended to confirm the insertion by the editors of the word "has" following the word "or" to improve clarity.

Section 106. Paragraph (f) of subsection (2) of section 774.204, Florida Statutes, is amended to read:

774.204 Physical impairment.—

(2) A person may not file or maintain a civil action alleging a nonmalignant asbestos claim in the absence of a prima facie showing of physical impairment as a result of a medical condition to which exposure to asbestos was a substantial contributing factor. The prima facie showing must include all of the following requirements:

(f) A determination by a qualified physician that asbestosis or diffuse pleural thickening, rather than chronic obstructive pulmonary disease, is a substantial contributing factor to the exposed person's physical impairment, based at a minimum on a determination that the exposed person has:

1. Total lung capacity, by plethysmography or timed gas dilution, below the predicted lower limit of normal;

2. Forced vital capacity below the lower limit of normal and a ratio of FEV1 to FVC that is equal to or greater than the predicted lower limit of normal; or

3. A chest X ray showing small, irregular opacities (s, t, u) graded by a certified B-reader as at least 2/1 on the ILO scale.

Reviser's note.—Amended to confirm the insertion by the editors of the word "as" following the term "certified B-reader" to improve clarity.

Section 107. Subsection (3) of section 774.205, Florida Statutes, is amended to read:

774.205 Claimant proceedings.—

(3) All asbestos claims and silica claims filed in this state on or after the effective date of this act must include, in addition to the written report described in subsection (2) ~~subsection (3) of section 5~~ and the information required by s. 774.207(2), a sworn information form containing the following information:

(a) The claimant's name, address, date of birth, and marital status;

(b) If the claimant alleges exposure to asbestos or silica through the testimony of another person or alleges other than direct or bystander exposure to a product, the name, address, date of birth, and marital status for each person by which the claimant alleges exposure, hereinafter the "index person," and the claimant's relationship to each such person;

(c) The specific location of each alleged exposure;

(d) The beginning and ending dates of each alleged exposure as to each asbestos product or silica product for each location at which exposure allegedly took place for the plaintiff and each index person;

(e) The occupation and name of the employer of the exposed person at the time of each alleged exposure;

(f) The specific condition related to asbestos or silica claimed to exist; and

(g) Any supporting documentation of the condition claimed to exist.

Reviser's note.—The introductory paragraph of subsection (3) is amended to confirm the substitution of a reference to "subsection (2)" for a reference to "subsection (3) of section 5" of ch. 2005-274, Laws of Florida. Subsection (2) describes the written report. Paragraph (3)(b) is amended to confirm the insertion by the editors of the word "and" following the word "birth" to improve clarity.

Section 108. Paragraph (b) of subsection (1) of section 774.208, Florida Statutes, is amended to read:

774.208 Liability rules applicable to protect sellers, renters, and lessors.—

(1)

(b) For the purpose of sub-subparagraph (a)1.b. ~~sub-subparagraph 1.b.~~, a product seller may not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect the product, if:

1. The failure occurred because there was no reasonable opportunity to inspect the product; or

2. The inspection, in the exercise of reasonable care, would not have revealed the aspect of the product which allegedly caused the exposed person's impairment.

Reviser's note.—Amended to confirm the substitution by the editors of a reference to sub-subparagraph (a)1.b. for a reference to sub-subparagraph 1.b. Paragraph (b) does not contain a sub-subparagraph 1.b.; sub-subparagraph (a)1.b., relating to failure of a product seller to use reasonable care with respect to the product, conforms to context.

Section 109. 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. 119.071(2)(j) ~~119.07(6)(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(6)(s) as s. 119.071(2)(j) by s. 17, ch. 2005-251, Laws of Florida.

Section 110. Paragraph (p) of subsection (3) of section 790.25, Florida Statutes, is amended to read:

790.25 Lawful ownership, possession, and use of firearms and other weapons.—

(3) LAWFUL USES.—The provisions of ss. 790.053 and 790.06 do not apply in the following instances, and, despite such sections, it is lawful for the following persons to own, possess, and lawfully use firearms and other weapons, ammunition, and supplies for lawful purposes:

(p) Investigators employed by the capital collateral regional counsel ~~representative~~, while actually carrying out official duties, provided such investigators:

1. Are employed full time;

2. Meet the official training standards for firearms as established by the Criminal Justice Standards and Training Commission as provided in s. 943.12(1) and the requirements of ss. 493.6108(1)(a) and 943.13(1)-(4); and

3. Are individually designated by an affidavit of consent signed by the capital collateral regional counsel ~~representative~~ and filed with the clerk of the circuit court in the county in which the investigator is headquartered.

Reviser's note.—Amended to conform to the replacement of the capital collateral representative with capital collateral regional counsel in s. 27.701 by s. 1, ch. 97-313, Laws of Florida.

Section 111. Paragraph (e) of subsection (2) of section 872.05, Florida Statutes, is amended to read:

872.05 Unmarked human burials.—

(2) DEFINITIONS.—As used in this section:

(e) "State Archaeologist" means the person employed by the division pursuant to s. 267.031(7) ~~267.031(6)~~.

Reviser's note.—Amended to conform to the redesignation of s. 267.031(6) as s. 267.031(7) by s. 1, ch. 2004-91, Laws of Florida.

Section 112. Paragraph (c) of subsection (1) of section 895.09, Florida Statutes, is amended to read:

895.09 Disposition of funds obtained through forfeiture proceedings.—

(1) A court entering a judgment of forfeiture in a proceeding brought pursuant to s. 895.05 shall retain jurisdiction to direct the distribution of any cash or of any cash proceeds realized from the forfeiture and disposition of the property. The court shall direct the distribution of the funds in the following order of priority:

(c) Any claim by the Board of Trustees of the Internal Improvement Trust Fund on behalf of the Internal Improvement Trust Fund or the Land Acquisition Trust Fund pursuant to s. 253.03(12) ~~253.03(13)~~, not including administrative costs of the Department of Environmental Protection previously paid directly from the Internal Improvement Trust Fund in accordance with legislative appropriation.

Reviser's note.—Amended to conform to the redesignation of s. 253.03(13) as s. 253.03(12) by s. 22, ch. 2004-234, Laws of Florida.

Section 113. Paragraph (c) of subsection (1) of section 938.29, Florida Statutes, is amended to read:

938.29 Legal assistance; lien for payment of attorney's fees or costs.—

(1)

(c) The defendant shall pay the application fee under s. 27.52(1)(b) ~~27.52(2)(a)~~ and attorney's fees and costs in full or in installments, at the time or times specified. The court may order payment of the assessed application fee and attorney's fees and costs as a condition of probation, of suspension of sentence, or of withholding the imposition of sentence. Attorney's fees and costs collected under this section shall be deposited into the General Revenue Fund.

Reviser's note.—Amended to conform to the substantial rewording of s. 27.52 by s. 3, ch. 2005-236, Laws of Florida; the application fee requirement is now in s. 27.52(1)(b).

Section 114. Section 943.04353, Florida Statutes, is amended to read:

943.04353 Triennial study of sexual predator and sexual offender registration and notification procedures.—The Office of Program Policy Analysis and Government Accountability shall, every 3 years, perform a study of the effectiveness of Florida's sexual predator and sexual offender registration process and community and public notification provisions. As part of determining the effectiveness of the registration process, OPPAGA shall examine the current practices of: the Department of Corrections, county probation offices, clerk of courts, court administrators, county jails and booking facilities, Department of Children and Family Services, judges, state attorneys' offices, Department of Highway Safety and Motor Vehicles, Department of Law Enforcement, and local law enforcement agencies as they relate to: sharing of offender information regarding registered sexual predators and sexual offenders for purposes of fulfilling the requirements set <u>forth</u> ~~fourth~~ in the registration laws; ensuring the most accurate, current, and comprehensive information is provided in a timely manner to the registry; ensuring the effective supervision and subsequent monitoring of sexual predators and offenders; and ensuring informed decisions are made at each point of the criminal justice and registration process. In addition to determining the effectiveness of the registration process, the report shall focus on the question of whether the notification provisions in statute are sufficient to apprise communities of the presence of sexual predators and sexual offenders. The report shall examine how local law enforcement agencies collect and disseminate information in an effort to notify the public and communities of the presence of sexual predators and offenders. If the report finds deficiencies in the registration process, the notification provisions, or both, the report shall provide options for correcting those deficiencies and shall include the projected cost of implementing those options. In conducting the study, the Office of Program Policy Analysis and Government Accountability shall consult with the Florida Council Against Sexual Violence and the Florida Association for the Treatment of Sexual Abusers in addition to other interested entities that may offer experiences and perspectives unique to this area of research. The report shall be submitted to the President of the Senate and the Speaker of the House of Representatives by January 1, 2006.

Reviser's note.—Amended to confirm the substitution by the editors of the word "forth" for the word "fourth" to conform to context.

Section 115. Subsection (4) of section 948.012, Florida Statutes, is amended to read:

948.012 Split sentence of probation or community control and imprisonment.—

(4) Effective for offenses committed on or after September 1, 2005, the court must impose a split sentence pursuant to subsection (1) for any person who is convicted of a life felony for lewd and lascivious molestation pursuant to s. 800.04(5)(b) if the court imposes a term of years in accordance with s. <u>775.082(3)(a)4.b.</u> ~~775.082(3)4.b.~~ rather than life imprisonment. The probation or community control portion of the split sentence imposed by the court for a defendant must extend for the duration of the defendant's natural life and include a condition that he or she be electronically monitored.

Reviser's note.—Amended to correct a reference. Section 4, ch. 2005-28, Laws of Florida, added subparagraph (3)(a)4., relating to punishment for conviction of a life felony committed on or after September 1, 2005, which is a violation of s. 800.04(5)(b); the subparagraph includes a sub-subparagraph a., providing for imprisonment for life, and a sub-subparagraph b., providing for a split sentence of a term of years followed by probation or community control for the remainder of the offender's life.

Section 116. Paragraph (i) of subsection (1) of section 948.03, Florida Statutes, is amended to read:

948.03 Terms and conditions of probation.—

(1) The court shall determine the terms and conditions of probation. Conditions specified in this section do not require oral pronouncement at the time of sentencing and may be considered standard conditions of probation. These conditions may include among them the following, that the probationer or offender in community control shall:

(i) Pay any application fee assessed under s. 27.52(1)(b) ~~27.52(2)(a)~~ and attorney's fees and costs assessed under s. 938.29, subject to modification based on change of circumstances.

Reviser's note.—Amended to conform to the substantial rewording of s. 27.52 by s. 3, ch. 2005-236, Laws of Florida; the application fee requirement is now in s. 27.52(1)(b).

Section 117. Subsection (2) of section 948.061, Florida Statutes, is amended to read:

948.061 Identifying, assessing, and monitoring high-risk sex offenders on community supervision; providing cumulative criminal and supervision histories on the Internet.—

(2) To facilitate the information available to the court at first appearance hearings and at all subsequent hearings for these high-risk sex offenders, the department shall, no later than March 1, 2006, post on FDLE's Criminal Justice Intranet a cumulative chronology of the sex offender's prior terms of state probation and community control, including all substantive or technical violations of state probation or community control. The county jail in the county where the arrested person is booked shall ensure ~~insure~~ that state and national criminal history information and all criminal justice information available in the Florida Crime Information Center and the National Crime Information Center, is provided to the court at the time of the first appearance. The courts shall assist the department's dissemination of critical information by creating and maintaining an automated system to provide the information as specified in this subsection and by providing the necessary technology in the courtroom to deliver the information.

Reviser's note.—Amended to confirm the substitution by the editors of the word "ensure" for the word "insure" to conform to context.

Section 118. Paragraphs (d) and (j) of subsection (1) of section 948.062, Florida Statutes, are amended to read:

948.062 Reviewing and reporting serious offenses committed by offenders placed on probation or community control.—

(1) The department shall review the circumstances related to an offender placed on probation or community control who has been arrested while on supervision for the following offenses:

(d) Any kidnapping, false imprisonment, or luring of a child as provided in s. 787.01, s. 787.02 ~~782.07~~, or s. 787.025;

(j) Any DUI manslaughter as provided in s. 316.193(3)(c), or vehicular or vessel homicide as provided in s. 782.071 or s. 782.072 ~~787.072~~, committed by any person who is on probation or community control for an offense involving death or injury resulting from a driving incident.

Reviser's note.—Paragraph (1)(d) is amended to correct a reference and conform to context. Section 782.07 relates to manslaughter; s. 787.02 relates to false imprisonment. Paragraph (1)(j) is amended to correct a reference and conform to context. Section 787.072 does not exist; s. 782.072 relates to vessel homicide.

Section 119. Paragraph (b) of subsection (7) of section 1008.25, Florida Statutes, is amended to read:

1008.25 Public school student progression; remedial instruction; reporting requirements.—

(7) SUCCESSFUL PROGRESSION FOR RETAINED READERS.—

(b) Beginning with the 2004-2005 school year, each school district shall:

1. Conduct a review of student academic improvement plans for all students who did not score above Level 1 on the reading portion of the FCAT and did not meet the criteria for one of the good cause exemptions in paragraph (6)(b). The review shall address additional supports and services, as described in this subsection, needed to remediate the identified areas of reading deficiency. The school district shall require a student portfolio to be completed for each such student.

2. Provide students who are retained under the provisions of paragraph (5)(b) with intensive instructional services and supports to remediate the identified areas of reading deficiency, including a minimum of 90 minutes of daily, uninterrupted, scientifically research-based reading instruction and other strategies prescribed by the school district, which may include, but are not limited to:

a. Small group instruction.

b. Reduced teacher-student ratios.

c. More frequent progress monitoring.

d. Tutoring or mentoring.

e. Transition classes containing 3rd and 4th grade students.

f. Extended school day, week, or year.

g. Summer reading camps.

3. Provide written notification to the parent of any student who is retained under the provisions of paragraph (5)(b) that his or her child has not met the proficiency level required for promotion and the reasons the child is not eligible for a good cause exemption as provided in paragraph (6)(b). The notification must comply with the provisions of s. 1002.20(15) ~~1002.20(14)~~ and must include a description of proposed interventions and supports that will be provided to the child to remediate the identified areas of reading deficiency.

4. Implement a policy for the midyear promotion of any student retained under the provisions of paragraph (5)(b) who can demonstrate that he or she is a successful and independent reader, reading at or above grade level, and ready to be promoted to grade 4. Tools that school districts may use in reevaluating any student retained may include subsequent assessments, alternative assessments, and portfolio reviews, in accordance with rules of the State Board of Education. Students promoted during the school year after November 1 must demonstrate proficiency above that required to score at Level 2 on the grade 3 FCAT, as determined by the State Board of Education. The State Board of Education shall adopt standards that provide a reasonable expectation that the student's progress is sufficient to master appropriate 4th grade level reading skills.

5. Provide students who are retained under the provisions of paragraph (5)(b) with a high-performing teacher as determined by student performance data and above-satisfactory performance appraisals.

6. In addition to required reading enhancement and acceleration strategies, provide parents of students to be retained with at least one of the following instructional options:

a. Supplemental tutoring in scientifically research-based reading services in addition to the regular reading block, including tutoring before and/or after school.

b. A "Read at Home" plan outlined in a parental contract, including participation in "Families Building Better Readers Workshops" and regular parent-guided home reading.

c. A mentor or tutor with specialized reading training.

7. Establish a Reading Enhancement and Acceleration Development (READ) Initiative. The focus of the READ Initiative shall be to prevent the retention of grade 3 students and to offer intensive accelerated reading instruction to grade 3 students who failed to meet standards for promotion to grade 4 and to each K-3 student who is assessed as exhibiting a reading deficiency. The READ Initiative shall:

a. Be provided to all K-3 students at risk of retention as identified by the statewide assessment system used in Reading First schools. The assessment must measure phonemic awareness, phonics, fluency, vocabulary, and comprehension.

b. Be provided during regular school hours in addition to the regular reading instruction.

c. Provide a state-identified reading curriculum that has been reviewed by the Florida Center for Reading Research at Florida State University and meets, at a minimum, the following specifications:

(I) Assists students assessed as exhibiting a reading deficiency in developing the ability to read at grade level.

(II) Provides skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension.

(III) Provides scientifically based and reliable assessment.

(IV) Provides initial and ongoing analysis of each student's reading progress.

(V) Is implemented during regular school hours.

(VI) Provides a curriculum in core academic subjects to assist the student in maintaining or meeting proficiency levels for the appropriate grade in all academic subjects.

8. Establish at each school, where applicable, an Intensive Acceleration Class for retained grade 3 students who subsequently score at Level 1 on the reading portion of the FCAT. The focus of the Intensive Acceleration Class shall be to increase a child's reading level at least two grade levels in 1 school year. The Intensive Acceleration Class shall:

a. Be provided to any student in grade 3 who scores at Level 1 on the reading portion of the FCAT and who was retained in grade 3 the prior year because of scoring at Level 1 on the reading portion of the FCAT.

b. Have a reduced teacher-student ratio.

c. Provide uninterrupted reading instruction for the majority of student contact time each day and incorporate opportunities to master the grade 4 Sunshine State Standards in other core subject areas.

d. Use a reading program that is scientifically research-based and has proven results in accelerating student reading achievement within the same school year.

e. Provide intensive language and vocabulary instruction using a scientifically research-based program, including use of a speech-language therapist.

f. Include weekly progress monitoring measures to ensure progress is being made.

g. Report to the Department of Education, in the manner described by the department, the progress of students in the class at the end of the first semester.

9. Report to the State Board of Education, as requested, on the specific intensive reading interventions and supports implemented at the school district level. The Commissioner of Education shall annually prescribe the required components of requested reports.

10. Provide a student who has been retained in grade 3 and has received intensive instructional services but is still not ready for grade promotion, as determined by the school district, the option of being placed in a transitional instructional setting. Such setting shall specifically be designed to produce learning gains sufficient to meet grade 4 performance standards while continuing to remediate the areas of reading deficiency.

Reviser's note.—Amended to conform to the redesignation of s. 1002.20(14) as s. 1002.20(15) by s. 5, ch. 2004-42, Laws of Florida.

Section 120. Subsection (7) of section 1013.30, Florida Statutes, is amended to read:

1013.30 University campus master plans and campus development agreements.—

(7) Notice that the campus master plan has been adopted must be forwarded within 45 days after its adoption to any affected person that submitted comments on the draft campus master plan. The notice must state how and where a copy of the master plan may be obtained or inspected. Within 30 days after receipt of the notice of adoption of the campus master plan, or 30 days after the date the adopted plan is available for review, whichever is later, an affected person who submitted comments on the draft master plan may petition the university board of trustees, challenging the campus master plan as not being in compliance with this section or any rule adopted under this section. The petition must state each objection, identify its source, and provide a recommended action. A petition filed by an affected local government may raise only those issues directly pertaining to the public facilities or services that the affected local government provides to or maintains within the campus or to the direct impact that campus development would have on the affected local government. A petition filed by an affected person must include those items required by the uniform rules adopted under s. 120.54(5). Any affected person who files a petition under this subsection may challenge only those provisions in the plan that were raised by that person's oral or written comments, recommendations, or objections presented to the university board of trustees, as required by paragraph (2)(b) ~~s. 1013.30(1)(b)~~. The university may, during the pendency of a challenge, negotiate a campus development agreement as provided in subsection (11).

Reviser's note.—Amended to confirm the substitution by the editors of a reference to paragraph (2)(b) for a reference to "s. 1013.30(1)(b)," which does not exist. Paragraph (2)(b) defines the term "affected person."

Section 121. Except as otherwise provided herein, this act shall take effect on the 60th day after adjournment sine die of the session of the Legislature in which enacted.

Approved by the Governor March 30, 2006.

Filed in Office Secretary of State March 30, 2006.