

House Bill No. 7121

An act relating to emergency management; providing legislative findings with respect to the need for improvements in the state's infrastructure in response to the hurricane seasons of 2004 and 2005; providing for the Legislature to make funds available to local and state agencies through appropriations to the Department of Community Affairs; requiring the department to establish a statewide grant application process; providing criteria for an appropriation to fund the construction or renovation of county emergency operations centers and designated alternate state emergency operations centers; providing limitations on the use of such funds; requiring that the release of funds be approved by the Legislative Budget Commission; providing criteria for an appropriation to fund equipping public special-needs hurricane evacuation shelters with the permanent capacity to generate emergency power; providing criteria for an appropriation for retrofitting public hurricane evacuation shelters; requiring that the release of funds be approved by the Legislative Budget Commission; providing for funds to be appropriated to improve the logistical staging and warehouse capacity of commodities used following a disaster; providing for funds to be appropriated for the purpose of hurricane evacuation planning; providing appropriations; directing the Division of Emergency Management to conduct a feasibility study relating to the supply and distribution of essential commodities by nongovernment and private entities; creating s. 526.143, F.S.; providing that each motor fuel terminal facility and wholesaler that sells motor fuel in the state must be capable of operating its distribution loading racks using an alternate power source for a specified period by a certain date; providing requirements with respect to the operation of such equipment following a major disaster; providing requirements with respect to inspection of such equipment; requiring newly constructed or substantially renovated motor fuel retail outlets to be capable of operation using an alternate power source; defining "substantially renovated"; requiring certain motor fuel retail outlets located within a specified distance from an interstate highway or state or federally designated evacuation route to be capable of operation using an alternate power source by a specified date; providing inspection and recordkeeping requirements; providing applicability; creating s. 526.144, F.S.; creating the Florida Disaster Motor Fuel Supplier Program within the Department of Community Affairs; providing requirements for participation in the program; providing that participation in the program shall be at the option of each county; providing for administration of the program; providing requirements of businesses certified as State Emergency Response Team members; providing for preemption to the state of the regulation of and requirements for siting and placement of an alternate power source and any related equipment at motor fuel terminal facilities, wholesalers, and retail sales outlets; providing for preemption to the state of the regulation of certain retail establishments; providing for review of the program;

providing a report; amending s. 501.160, F.S., providing limiting price gouge prohibition periods; providing prohibition period renewal; amending s. 553.509, F.S., relating to requirements with respect to vertical accessibility under part II of ch. 553, F.S., the “Florida Americans With Disabilities Accessibility Implementation Act”; requiring specified existing and newly constructed residential multifamily dwellings to have at least one public elevator that is capable of operating on an alternate power source for emergency purposes; providing requirements with respect to the alternate power source; providing for verification of compliance by specified dates; providing requirements with respect to emergency operations plans and inspection records; requiring any person, firm, or corporation that owns, manages or operates specified multistory affordable residential dwellings to attempt to obtain grant funding to comply with the act; requiring an owner, manager or operator of such a dwelling to develop an evacuation plan in the absence of compliance with the act; providing additional inspection requirements under ch. 399, F.S., the “Elevator Safety Act”; amending s. 252.35, F.S.; expanding the duty of the Division of Emergency Management to conduct a public educational campaign on emergency preparedness issues; expanding the duty of the Division of Emergency Management to create and maintain lists of emergency generators; providing an additional duty of the division with respect to educational outreach concerning disaster preparedness; providing an appropriation to the Department of Community Affairs to conduct a feasibility study; providing severability; amending s. 252.355, F.S.; specifying additional entities and agencies that are required to provide registration information to persons with disabilities or special needs for purposes of inclusion within the registry of persons with special needs maintained by local emergency management agencies; providing that the Department of Community Affairs is the designated lead agency responsible for community education and outreach to the general public, including persons with special needs, regarding registration as a person with special needs, special needs shelters, and general information regarding shelter stays; providing that special needs shelters must allow persons with special needs to bring service animals into special needs shelters; revising provisions with respect to the required notification of residential utility customers of the availability of the special needs registration program; providing that specified confidential and exempt information relating to the roster of persons with special needs in special needs shelters be provided to local law enforcement; creating s. 252.3568, F.S.; requiring the Division of Emergency Management to address strategies for the evacuation of persons with pets in the shelter component of the state comprehensive emergency management plan; creating s. 252.357, F.S.; requiring the Florida Comprehensive Emergency Management Plan to permit the Agency for Health Care Administration to make initial contact with each nursing home and assisted living facility in a disaster area; requiring the agency to annually publish an emergency telephone number that may be used by nursing homes and assisted living facilities to contact the agency; amending s. 252.385,

F.S., relating to public shelter space; requiring the Division of Emergency Management of the Department of Community Affairs to biennially prepare and submit a statewide emergency shelter plan to the Governor and the Cabinet for approval; providing plan requirements; requiring the Department of Health to provide specified assistance to the division; revising the list of those facilities that are excluded as being suitable for use as public hurricane evacuation shelters; requiring local emergency management agencies to coordinate with public facilities to determine readiness prior to activation; amending s. 381.0303, F.S.; providing for the operation of special needs shelters; providing that local Children's Medical Services offices shall assume lead responsibility for specified coordination with respect to the development of a plan for the staffing and medical management of pediatric special needs shelters; requiring that such plans conform to the local comprehensive emergency management plan; requiring county governments to assist the Department of Health with nonmedical staffing and operation of special needs shelters; requiring county health departments and emergency management agencies to coordinate such efforts to ensure appropriate staffing; providing that the appropriate county health department, Children's Medical Services office, and local emergency management agency shall jointly determine the responsibility for medical supervision in a special needs shelter; providing notification requirements; requiring the emergency management agency and the local health department to coordinate efforts to ensure appropriate designation, operation, and closure of special needs shelters; requiring the Secretary of Elderly Affairs to convene multiagency special needs shelter discharge planning teams to assist local areas that are severely impacted by a natural or manmade disaster that requires the use of special needs shelters; providing duties and responsibilities of such discharge planning teams; providing for the inclusion of specified state agency representatives on each discharge planning team; revising provisions relating to reimbursement of health care practitioners; providing for eligibility of specified health care facilities for reimbursement when a multiagency special needs shelter discharge planning team discharges persons with special needs to such receiving facilities; providing procedures and requirements with respect to such reimbursement; requiring the department to specify by rule expenses that are reimbursable and the rate of reimbursement for services; revising provisions that prescribe means of and procedures for reimbursement; disallowing specified reimbursements; revising provisions with respect to the organization, role, duties, and composition of the special needs shelter interagency committee; requiring the department to adopt specified rules with respect to special needs shelters; amending ss. 400.492, 400.497, 400.506, 400.610, and 400.934, F.S.; revising requirements with respect to the comprehensive emergency management plans of home health agencies, nurse registries, and hospices, and providing requirements with respect to home medical equipment providers, to include the means by which continuing services will be provided to patients who evacuate to special needs shelters; authorizing the

establishment of links to local emergency operations centers for specified purposes; revising requirements of a county health department with respect to review of a comprehensive emergency management plan submitted by a home health agency, nurse registry, or hospice; providing requirements upon failure to submit a plan or requested information to the department; providing for imposition of a fine; revising requirements of the Department of Health with respect to review of the plan of a home health agency or hospice that operates in more than one county; providing that the preparation and maintenance of a comprehensive emergency management plan by a home medical equipment provider is a requirement for licensure and must meet minimum criteria established by the Agency for Health Care Administration; providing plan requirements; providing that the plan is subject to review and approval by the county health department; requiring each home medical equipment provider to maintain a current prioritized list of patients who need continued services during an emergency; amending s. 400.925, F.S.; defining "life-supporting or life-sustaining equipment" for purposes of part X of ch. 400, F.S., relating to home medical equipment providers; amending s. 400.935, F.S.; requiring the Agency for Health Care Administration to adopt rules with respect to the comprehensive emergency management plan prepared by a home medical equipment services provider; amending s. 408.831, F.S.; providing that entities regulated or licensed by the Agency for Health Care Administration may exceed their licensed capacity to act as receiving facilities under specified circumstances; providing requirements while such entities are in an overcapacity status; providing for issuance of an inactive license to such licensees under specified conditions; providing requirements and procedures with respect to the issuance and reactivation of an inactive license; providing fees; requiring certain health insurance companies to waive restrictions on filling prescriptions during a declared State of Emergency; providing effective dates.

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

Section 1. The Legislature finds that there is a compelling need for improvements in infrastructure, as identified during the 2004 and 2005 hurricane seasons, in order to better protect the residents of this state. Based on the criteria specified in this section, the Legislature shall make funds available to local and state agencies through appropriations to the Department of Community Affairs for the purpose of enhancing public education and information, constructing or improving county emergency operations centers and designated alternate state emergency operations centers, providing emergency power for public special-needs hurricane evacuation shelters, retrofitting public hurricane evacuation shelters, improving logistical staging and warehouse capacity for commodities, and planning for hurricane evacuations. The criteria in this section shall be considered by the Legislature in determining eligibility for funding.

(1)(a) The Legislature finds that county emergency operations centers and designated alternate state emergency operations centers should meet

minimum criteria for structural survivability and sufficiency of operational space, as determined by assessments performed by the Department of Community Affairs using the structural requirements of American Red Cross Standard ARC 4496, "Guidelines for Hurricane Evacuation Shelter Selection," and based on guidance from the Federal Emergency Management Agency. Criteria for prioritizing and recommending the funding for county emergency operations centers and designated alternate state emergency operations centers include, but are not limited to, county population, hurricane evacuation clearance time for the vulnerable population of the county, structural survivability of the existing emergency operations center, and guidance of the Federal Emergency Management Agency for workspace requirements for the emergency operations center. First priority for funding recommendations shall be for county emergency operations centers or designated alternate state emergency operations centers where no survivable facility exists and where workspace deficits exist. Funding recommendations made pursuant to this paragraph may not include land acquisition; the purchase of equipment, furnishings, communications, or operational systems; or recurring expenditures. Funding recommendations must be limited to the construction or structural renovation of the county emergency operations center or designated alternate state emergency operations centers needed to meet the same structural requirements of American Red Cross Standard ARC 4496, "Guidelines for Hurricane Evacuation Shelter Selection," and national workspace recommendations. The Department of Community Affairs shall establish a statewide competitive grant application process for proposals to construct or improve county emergency operations centers such that those centers would, upon completion of the project, meet minimum criteria as specified in this section. The application may contain one or more independent proposals for:

1. A construction or improvement project requesting state financial assistance or having received state financial assistance which also includes facility hardening or mitigation and which qualifies for funding under the federal Hazard Mitigation Grant Program. These proposals must document the commitment of all local funds needed and identify the proposed state and federal funding needed, based on the funding criteria specified in this paragraph, to complete the project for a fully operational county emergency operations center or designated alternate state emergency operations center.

2. A construction or improvement project to be funded with local or other nonstate funds which includes facility hardening or mitigation and which qualifies for funding under the federal Hazard Mitigation Grant Program. These proposals must document the commitment of all local funds needed and identify the proposed federal funding needed, based on the funding criteria in this paragraph, to complete the project for a fully operational county emergency operations center or a designated alternate state emergency operations center.

(b) The department shall prioritize all properly submitted project applications based on minimum criteria as specified in this section, local government participation, and documented need. In reviewing proposals, the department must take into consideration all state funds already provided for

the project which have not been expended but which will decrease the project's fiscal need once expended. The amount of a project's cost recommended for funding by the department shall be limited to those costs considered reasonably necessary to meet minimum criteria specified in this section. The release of any funds specifically appropriated to implement this subsection must be approved by the Legislative Budget Commission. Upon completion of the prioritization process, and no later than November 1, 2006, the department shall submit to the Legislative Budget Commission for approval a comprehensive funding proposal for the construction of and improvements to county emergency operations centers and designated alternate state emergency operations centers using appropriated funds. The proposal submitted to the Legislative Budget Commission must include a detailed identification of the project and the corresponding detailed local, state, and federal funding proposed for each project. In order to ensure the maximum use of federal funds that are available for the Hazard Mitigation Grant Program, any federal funds appropriated to implement this subsection which remain after fully allocating those funds to proposals under subparagraphs 1. and 2. may be used to fund proposals for retrofitting hurricane evacuation shelters under subsection (3). Any federal funds appropriated to implement this paragraph which remain after fully allocating those funds for proposals under subparagraphs 1. and 2. and subsection (3) shall be appropriated for distribution pursuant to chapter 9G-22, Florida Administrative Code. The Executive Office of the Governor may submit a budget amendment to transfer those funds in accordance with chapter 216, Florida Statutes.

(2) The Legislature finds that by June 1, 2007, all designated public special-needs hurricane evacuation shelters should be equipped with permanent emergency power generating capacity in order to provide electrical power for necessary medical equipment for persons housed in the shelter and for heating, ventilating, and air-conditioning the facility. An appropriation for equipping a public special-needs hurricane evacuation shelter with permanent emergency power generating capacity may also be used in coordination with local communities in order to increase the number of special-needs shelter spaces that are available and to ensure that a sufficient number of public special-needs shelters are designated to meet the anticipated demand based on the best available data as determined jointly by the Department of Community Affairs and the Department of Health.

(3) The Legislature finds that retrofitting public hurricane evacuation shelters is an efficient and economical method of accelerating the state and local efforts to reduce the deficit in shelter space. Criteria for assessing and prioritizing the funding needs for retrofitting public hurricane evacuation shelters include, but are not limited to, the project's ability to meet the structural and siting requirements of American Red Cross Standard ARC 4496, "Guidelines for Hurricane Evacuation Shelter Selection," once completed; the shelter needs of the local government as well as the overall needs of the hurricane evacuation planning region; the cost-effectiveness of the project in terms of the number of public hurricane evacuation spaces; and the priority ranking of the proposed project in the applicable local mitigation strategy. The Department of Community Affairs shall establish a statewide competitive grant application process for retrofitting public hurricane evacuation shelters to meet the minimum criteria specified in this section. In

reviewing proposals, the department shall consider all state funds already provided for the project which have not been expended but which will decrease the project's fiscal need once expended. The department shall prioritize all properly submitted project applications based on criteria specified in this section and documented need. The release of any funds specifically appropriated to implement this subsection must be approved by the Legislative Budget Commission. Upon completion of the prioritization process, and no later than November 1, 2006, the department shall recommend funding for retrofitting public hurricane evacuation shelters to the Legislative Budget Commission for approval. In order to ensure maximum use of federal funds available for the Hazard Mitigation Grant Program, any federal funds appropriated to implement this subsection which are remaining after fully allocating those funds to proposals under this subsection shall be appropriated for distribution pursuant to chapter 9G-22, Florida Administrative Code. The Executive Office of the Governor may submit a budget amendment to transfer those funds in accordance with the provisions of chapter 216, Florida Statutes.

(4) The Legislature finds that improved logistical staging and warehouse capacity for commodities will help ensure that adequate supplies, equipment, and commodities are available and accessible for purposes of responding to disasters. Appropriated funds may be used for increasing storage capacity; improving technologies to manage commodities; and enhancing the state's ability to maintain in a safe and secure manner an inventory of supplies, equipment, and commodities that would be needed in the immediate aftermath of a disaster. The release of any funds specifically appropriated to implement this subsection must be approved by the Legislative Budget Commission. The department shall submit a funding plan for improved logistical staging and warehouse capacity to the Legislative Budget Commission for approval by September 1, 2006. Procurement of technologies to perform inventory tracking and commodities management must comply with the provisions of s. 287.057, Florida Statutes, requiring competitive bids.

(5) The Legislature finds that hurricane evacuation planning is a critical task that must be completed in the most effective and efficient manner possible. Appropriated funds may be used to update current regional evacuation plans and shall incorporate current transportation networks, behavioral studies, and vulnerability studies. In addition, funds may be used to perform computer-modeling analysis on the effects of storm-surge events. Procurement of technologies to perform the updates and computer modeling must comply with the provisions s. 287.057, Florida Statutes, requiring competitive bids.

Section 2. The sum of \$13.2 million in fixed capital outlay is appropriated from the General Revenue Fund and the sum of \$39.6 million is appropriated from the U.S. Contributions Trust Fund to the Department of Community Affairs for the purpose of implementing the provisions of this act relating to providing emergency power generators in special-needs shelters during the 2006-2007 state fiscal year. The Department of Community Affairs may not use more than 5 percent of these funds to administer the funding provided.

Section 3. The sum of \$15 million in fixed capital outlay is appropriated from the U.S. Contributions Trust Fund to the Department of Community Affairs for the purpose of implementing the provisions of this act relating to retrofitting public hurricane evacuation shelters during the 2006-2007 state fiscal year. The Department of Community Affairs may not use more than 5 percent of these funds to administer the funding provided.

Section 4. The sum of \$29 million is appropriated from the U.S. Contributions Trust Fund to the Department of Community Affairs for the purpose of implementing the provisions of this act relating to hurricane evacuation planning during the 2006-2007 state fiscal year. The Department of Community Affairs may not use more than 5 percent of these funds to administer the funding provided.

Section 5. The sum of \$2.1 million in recurring funds is appropriated from the General Revenue Fund and the sum of \$4.4 million is appropriated from the Emergency Management Preparedness and Assistance Trust Fund to the Department of Community Affairs for the 2006-2007 state fiscal year. Notwithstanding s. 252.373, Florida Statutes, these funds may be used to implement the provisions of this act relating to improved logistical staging and warehouse capacity for commodities.

Section 6. The sum of \$20 million in fixed capital outlay is appropriated from the General Revenue Fund and the sum of \$25 million is appropriated from the U.S. Contributions Trust Fund to the Department of Community Affairs for the purpose of implementing the provisions of this act relating to county emergency operations centers and designated alternate state emergency operations centers during the 2006-2007 state fiscal year. The Department of Community Affairs may not use more than 5 percent of these funds to administer the funding provided.

Section 7. The sum of \$3.4 million is appropriated from the U.S. Contributions Trust Fund to the Department of Community Affairs for the purpose of implementing the provisions of this act relating to enhanced public education and information on hurricane preparedness during the 2006-2007 state fiscal year.

Section 8. The Legislature finds that there is a compelling need to better coordinate emergency response capabilities among local, state, federal, non-government, and private sector partners to provide the best and most effective postdisaster services to the people of the State of Florida. In order to encourage the rapid recovery of economies in disaster affected areas, the Legislature finds that programs to restore normal commerce in communities should be a part of the State Comprehensive Emergency Management Plan. The Legislature recognizes nongovernment agencies and the private sector as key partners in disaster preparedness, response, and recovery. Further, the Legislature recognizes the demonstrated abilities and contributions of these entities in successfully providing logistical support and commodities through well-proven distribution systems. In order to enhance the State Comprehensive Plan, the Division of Emergency Management within the Department of Community Affairs is directed to conduct a feasibility study on incorporating into the state's emergency management plan the logistical

supply and distribution of essential commodities by nongovernment agencies and private entities. In conducting the study, the division shall consult with the Florida Retail Federation, the Florida Petroleum Council, the Florida Petroleum Marketers and Convenience Store Association, the Florida Emergency Preparedness Association, the American Red Cross, Volunteer Florida, and other entities as appropriate. As part of the study, the division shall create a set of operational standards that may be adopted by retail establishments to qualify for preemption from local government regulations in response to a disaster. No later than February 1, 2007, the division shall make recommendations based on the study to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and shall provide a set of operational standards for retail establishments which are recognized as part of the state emergency management plan. These standards must be met in order for retail establishments to participate in the state emergency response to a disaster and to qualify for preemption of regulation of such businesses to the state during such a response.

Section 9. Effective July 1, 2006, section 526.143, Florida Statutes, is created to read:

526.143 Alternate generated power capacity for motor fuel dispensing facilities.—

(1) By June 1, 2007, each motor fuel terminal facility, as defined in s. 526.303(16), and each wholesaler, as defined in s. 526.303(17), which sells motor fuel in this state must be capable of operating its distribution loading racks using an alternate generated power source for a minimum of 72 hours. Pending a postdisaster examination of the equipment by the operator to determine any extenuating damage that would render it unsafe to use, the facility must have such alternate generated power source available for operation no later than 36 hours after a major disaster as defined in s. 252.34. Installation of appropriate wiring, including a transfer switch, shall be performed by a certified electrical contractor. Each business that is subject to this subsection must keep a copy of the documentation of such installation on site or at its corporate headquarters. In addition, each business must keep a written statement attesting to the periodic testing and ensured operational capacity of the equipment. The required documents must be made available, upon request, to the Division of Emergency Management and the director of the county emergency management agency.

(2) Each newly constructed or substantially renovated motor fuel retail outlet, as defined in s. 526.303(14), for which a certificate of occupancy is issued on or after July 1, 2006, shall be prewired with an appropriate transfer switch, and capable of operating all fuel pumps, dispensing equipment, life-safety systems, and payment-acceptance equipment using an alternate generated power source. As used in this subsection, the term “substantially renovated” means a renovation that results in an increase of greater than 50 percent in the assessed value of the motor fuel retail outlet. Local building inspectors shall include this equipment and operations check in the normal inspection process before issuing a certificate of occupancy. Each retail outlet that is subject to this subsection must keep a copy of the certificate of occupancy on site or at its corporate headquarters. In addition,

each retail outlet must keep a written statement attesting to the periodic testing of and ensured operational capability of the equipment. The required documents must be made available, upon request, to the Division of Emergency Management and the director of the county emergency management agency.

(3)(a) No later than June 1, 2007, each motor fuel retail outlet described in subparagraph 1., subparagraph 2., or subparagraph 3., which is located within one-half mile proximate to an interstate highway or state or federally designated evacuation route must be prewired with an appropriate transfer switch and be capable of operating all fuel pumps, dispensing equipment, life-safety systems, and payment-acceptance equipment using an alternate generated power source:

1. A motor fuel retail outlet located in a county having a population of 300,000 or more which has 16 or more fueling positions.

2. A motor fuel retail outlet located in a county having a population of 100,000 or more, but fewer than 300,000, which has 12 or more fueling positions.

3. A motor fuel retail outlet located in a county having a population of fewer than 100,000 which has eight or more fueling positions.

(b) Installation of appropriate wiring and transfer switches must be performed by a certified electrical contractor. Each retail outlet that is subject to this subsection must keep a copy of the documentation of such installation on site or at its corporate headquarters. In addition, each retail outlet must keep a written statement attesting to the periodic testing of and ensured operational capacity of the equipment. The required documents must be made available, upon request, to the Division of Emergency Management and the director of the county emergency management agency.

(4)(a) Subsections (2) and (3) apply to any self-service, full-service, or combination self-service and full-service motor fuel retail outlet regardless of whether the retail outlet is located on the grounds of, or is owned by, another retail business establishment that does not engage in the business of selling motor fuel.

(b) Subsections (2) and (3) do not apply to:

1. An automobile dealer;

2. A person who operates a fleet of motor vehicles;

3. A person who sells motor fuel exclusively to a fleet of motor vehicles;
or

4. A motor fuel retail outlet that has a written agreement with a public hospital, in a form approved by the Division of Emergency Management, wherein the public hospital agrees to provide the motor fuel retail outlet with an alternative means of power generation onsite so that the outlet's fuel pumps may be operated in the event of a power outage.

(5)(a) Each corporation or other entity that owns 10 or more motor fuel retail outlets located within a single county shall maintain at least one portable generator that is capable of providing an alternate generated power source as required under subsection (2) for every 10 outlets. If an entity owns more than 10 outlets or a multiple of 10 outlets plus an additional six outlets, the entity must provide one additional generator to accommodate such additional outlets. Each portable generator must be stored within this state, or may be stored in another state if located within 250 miles of this state, and must be available for use in an affected location within 24 hours after a disaster.

(b) Each corporation or other entity that owns 10 or more motor fuel retail outlets located within a single domestic security region, as determined pursuant to s. 943.0312(1), and that does not own additional outlets located outside the domestic security region shall maintain a written document of agreement with one or more similarly equipped entities for the use of portable generators that may be used to meet the requirements of paragraph (a) and that are located within this state but outside the affected domestic security region. The agreement may be reciprocal, may allow for payment for services rendered by the providing entity, and must guarantee the availability of the portable generators to an affected location within 24 hours after a disaster.

(c) For purposes of this section, ownership of a motor fuel retail outlet shall be the owner of record of the fuel storage systems operating at the location, as identified in the Department of Environmental Protection underground storage facilities registry pursuant to s. 376.303(1).

Section 10. Effective July 1, 2006, section 526.144, Florida Statutes, is created to read:

526.144 Florida Disaster Motor Fuel Supplier Program.—

(1)(a) There is created the Florida Disaster Motor Fuel Supplier Program within the Department of Community Affairs.

(b) Participation in the program shall be at the option of each county governing body. In counties choosing to participate in the program, the local emergency management agency shall be primarily responsible for administering the program within those counties. Nothing in this section requires participation in the program.

(c) In participating counties, the Florida Disaster Motor Fuel Supplier Program shall allow any retail motor fuel outlet doing business in those counties to participate in a network of emergency responders to provide fuel supplies and services to government agencies, medical institutions and facilities, critical infrastructure, and other responders, as well as the general public, during a declared disaster as described in s. 252.36(2).

(d) Retail motor fuel outlets doing business in participating counties that choose to become members of the Florida Disaster Motor Fuel Supplier Program must be able to demonstrate the capability to provide onsite fuel dispensing services to other members of the State Emergency Response

Team within 24 hours after a major disaster has occurred and agree to make such service available as needed. Local emergency management agencies may determine appropriate measures for determining such readiness, including acceptance of a written attestation from the retail motor fuel outlet, a copy of an executed contract for services, or other documents or activities that demonstrate readiness. Participating retail motor fuel outlets may choose to sell motor fuel through a pre-existing contract with local, state, or federal response agencies or may provide point-of-sale service to such agencies. In addition, participating retail motor fuel outlets may choose to sell motor fuel to the general public upon compliance with requirements to provide service under ss. 252.35 and 252.38 as directed by county or state emergency management officials. This section does not preclude any retail motor fuel outlet from selling fuel during lawful operating hours. Nonparticipating motor fuel retail outlets may not operate during declared curfew hours. If requested, appropriate law enforcement or security personnel may be provided through emergency management protocol to the participating business for the purpose of maintaining civil order during operating hours.

(e) Motor fuel outlets that choose to participate in the Florida Disaster Motor Fuel Supplier Program pursuant to paragraph (d) may be issued a State Emergency Response Team logo by the participating county emergency management agency for public display to alert emergency responders and the public that the business is capable of assisting in an emergency.

(f) Counties that choose to participate in the Florida Disaster Motor Fuel Supplier Program may charge a fee to cover the actual costs of accepting a retail motor fuel outlet into the program, including the cost of performing any required review, filing of necessary forms, and producing logo decals for public display. Additional charges may not be imposed for processing individual documents associated with the program. Funds collected shall be deposited into an appropriate county operating account.

(3) Persons who are designated as members of the State Emergency Response Team and who can produce appropriate identification, as determined by state or county emergency management officials, shall be given priority for purchasing fuel at businesses designated as members of the State Emergency Response Team. A business may be directed by county or state emergency management officials to remain open during a declared curfew in order to provide service for emergency personnel. Under such direction, the business is not in violation of the curfew and may not be penalized for such operation and the emergency personnel are not in violation of the curfew. A person traveling during a curfew must be able to produce valid official documentation of his or her position with the State Emergency Response Team or the local emergency management agency. Such documentation may include, but need not be limited to, a current SERT identification badge, current law enforcement or other response agency identification or shield, current health care employee identification card, or current government services identification card indicating a critical services position.

(4) A business that is designated as a member of the State Emergency Response Team may request priority in receiving a resupply of fuel in order

to continue service to emergency responders. Such request is not binding but shall be considered by emergency management officials in determining appropriate response actions.

(5)(a) Notwithstanding any other law or local ordinance and for the purpose of ensuring an appropriate emergency management response following major disasters in this state, the regulation, siting, and placement of alternate power source capabilities and equipment at motor fuel terminal facilities, motor fuel wholesalers, and motor fuel retail sales outlets are preempted to the state.

(b) Notwithstanding any other law or other ordinance and for the purpose of ensuring an appropriate emergency management response following major disasters in this state, the regulation of all other retail establishments participating in such response shall be as follows:

1. Regulation of retail establishments that meet the standards created by the Division of Emergency Management in the report required in section 8 of this act by July 1, 2007, is preempted to the state and until such standards are adopted, the regulation of these retail establishments is preempted to the state;

2. The division shall provide written certification of such preemption to retail establishments that qualify and shall provide such information to local governments upon request; and

3. Regulation of retail establishments that do not meet the operational standards is subject to local government laws or ordinances.

(6) The Energy Office of the Department of Environmental Protection shall review situational progress in post-disaster motor fuel supply distribution and provide a report to the Legislature by March 1, 2007. The report must include information concerning statewide compliance with s. 526.143, Florida Statutes, and an identification of all motor fuel retail outlets that are participating in the Florida Disaster Motor Fuel Supplier Program.

Section 11. Effective July 1, 2006, subsection (2) of section 501.160, Florida Statutes, is amended to read:

501.160 Rental or sale of essential commodities during a declared state of emergency; prohibition against unconscionable prices.—

(2) Upon a declaration of a state of emergency by the Governor, it is unlawful and a violation of s. 501.204 for a person or her or his agent or employee to rent or sell or offer to rent or sell at an unconscionable price within the area for which the state of emergency is declared, any essential commodity including, but not limited to, supplies, services, provisions, or equipment that is necessary for consumption or use as a direct result of the emergency. This prohibition is effective not to exceed 60 days under the initial declared state of emergency as defined in s. 252.36(2) and shall be renewed by statement in any subsequent renewals of the declared state of emergency by the Governor remains in effect until the declaration expires or is terminated.

Section 12. Effective July 1, 2006, section 553.509, Florida Statutes, is amended to read:

553.509 Vertical accessibility.—

(1) Nothing in sections 553.501-553.513 or the guidelines shall be construed to relieve the owner of any building, structure, or facility governed by those sections from the duty to provide vertical accessibility to all levels above and below the occupiable grade level, regardless of whether the guidelines require an elevator to be installed in such building, structure, or facility, except for:

(a)(1) Elevator pits, elevator penthouses, mechanical rooms, piping or equipment catwalks, and automobile lubrication and maintenance pits and platforms;

(b)(2) Unoccupiable spaces, such as rooms, enclosed spaces, and storage spaces that are not designed for human occupancy, for public accommodations, or for work areas; and

(c)(3) Occupiable spaces and rooms that are not open to the public and that house no more than five persons, including, but not limited to, equipment control rooms and projection booths.

(2)(a) Any person, firm, or corporation that owns, manages, or operates a residential multifamily dwelling, including a condominium, that is at least 75 feet high and contains a public elevator, as described in s. 399.035(2) and (3) and rules adopted by the Florida Building Commission, shall have at least one public elevator that is capable of operating on an alternate power source for emergency purposes. Alternate power shall be available for the purpose of allowing all residents access for a specified number of hours each day over a 5-day period following a natural disaster, manmade disaster, emergency, or other civil disturbance that disrupts the normal supply of electricity. The alternate power source that controls elevator operations must also be capable of powering any connected fire alarm system in the building.

(b) At a minimum, the elevator must be appropriately pre-wired and prepared to accept an alternate power source and must have a connection on the line side of the main disconnect, pursuant to National Electric Code Handbook, Article 700. In addition to the required power source for the elevator and connected fire alarm system in the building, the alternate power supply must be sufficient to provide emergency lighting to the interior lobbies, hallways, and other portions of the building used by the public. Residential multifamily dwellings must have an available generator and fuel source on the property or have proof of a current contract posted in the elevator machine room or other place conspicuous to the elevator inspector affirming a current guaranteed service contract for such equipment and fuel source to operate the elevator on an on-call basis within 24 hours after a request. By December 31, 2006, any person, firm or corporation that owns, manages or operates a residential multifamily dwelling as defined in paragraph (2)(a) must provide to the local building inspection agency verification of engineering plans for residential multifamily dwellings that provide for

the capability to generate power by alternate means. Compliance with installation requirements and operational capability requirements must be verified by local building inspectors and reported to the county emergency management agency by December 31, 2007.

(c) Each newly constructed residential multifamily dwelling, including a condominium, that is at least 75 feet high and contains a public elevator, as described in s. 399.035(2) and (3) and rules adopted by the Florida Building Commission, must have at least one public elevator that is capable of operating on an alternate power source for the purpose of allowing all residents access for a specified number of hours each day over a 5-day period following a natural disaster, manmade disaster, emergency, or other civil disturbance that disrupts the normal supply of electricity. The alternate power source that controls elevator operations must be capable of powering any connected fire alarm system in the building. In addition to the required power source for the elevator and connected fire alarm system, the alternate power supply must be sufficient to provide emergency lighting to the interior lobbies, hallways, and other portions of the building used by the public. Engineering plans and verification of operational capability must be provided by the local building inspector to the county emergency management agency before occupancy of the newly constructed building.

(d) Each person, firm, or corporation that is required to maintain an alternate power source under this subsection shall maintain a written emergency operations plan that details the sequence of operations before, during, and after a natural or manmade disaster or other emergency situation. The plan must include, at a minimum, a life safety plan for evacuation, maintenance of the electrical and lighting supply, and provisions for the health, safety, and welfare of the residents. In addition, the owner, manager, or operator of the residential multifamily dwelling must keep written records of any contracts for alternative power generation equipment. Also, quarterly inspection records of life safety equipment and alternate power generation equipment must be posted in the elevator machine room or other place conspicuous to the elevator inspector, which confirm that such equipment is properly maintained and in good working condition, and copies of contracts for alternate power generation equipment shall be maintained on site for verification. The written emergency operations plan and inspection records shall also be open for periodic inspection by local and state government agencies as deemed necessary. The owner or operator must keep a generator key in a lockbox posted at or near any installed generator unit.

(e) Multistory affordable residential dwellings for persons age 62 and older that are financed or insured by the United States Department of Housing and Urban Development must make every effort to obtain grant funding from the Federal Government or the Florida Housing Finance Corporation to comply with this subsection. If an owner of such a residential dwelling cannot comply with the requirements of this subsection, the owner must develop a plan with the local emergency management agency to ensure that residents are evacuated to a place of safety in the event of a power outage resulting from a natural or manmade disaster or other emergency situation that disrupts the normal supply of electricity for an extended

period of time. A place of safety may include, but is not limited to, relocation to an alternative site within the building or evacuation to a local shelter.

(f) As a part of the annual elevator inspection required under s. 399.061, certified elevator inspectors shall confirm that all installed generators required by this chapter are in working order, have current inspection records posted in the elevator machine room or other place conspicuous to the elevator inspector, and that the required generator key is present in the lockbox posted at or near the installed generator. If a building does not have an installed generator, the inspector shall confirm that the appropriate pre-wiring and switching capabilities are present and that a statement is posted in the elevator machine room or other place conspicuous to the elevator inspector affirming a current guaranteed contract exists for contingent services for alternate power is current for the operating period.

However, buildings, structures, and facilities must, as a minimum, comply with the requirements in the Americans with Disabilities Act Accessibility Guidelines.

Section 13. Effective July 1, 2006, paragraph (i) of subsection (2) of section 252.35, Florida Statutes, is amended, present paragraphs (j) through (q) of that subsection are redesignated as paragraphs (k) through (r), respectively, present paragraphs (r) through (v) of that subsection are redesignated as paragraphs (u) through (y), respectively, and new paragraphs (j), (s), and (t) are added to that subsection to read:

252.35 Emergency management powers; Division of Emergency Management.—

(2) The division is responsible for carrying out the provisions of ss. 252.31-252.90. In performing its duties under ss. 252.31-252.90, the division shall:

(i) Institute statewide public awareness programs. This shall include an intensive public educational campaign on emergency preparedness issues, including, but not limited to, the personal responsibility of individual citizens to be self-sufficient for up to 72 hours following a natural or manmade disaster. The public educational campaign shall include relevant information on statewide disaster plans, evacuation routes, fuel suppliers, and shelters. All educational materials must be available in alternative formats and mediums to ensure that they are available to persons with disabilities.

(j) The Division of Emergency Management and the Department of Education shall coordinate with the Agency For Persons with Disabilities to provide an educational outreach program on disaster preparedness and readiness to individuals who have limited English skills and identify persons who are in need of assistance but are not defined under special-needs criteria.

(s) By January 1, 2007, the Division of Emergency Management shall complete an inventory of portable generators owned by the state and local governments which are capable of operating during a major disaster. The

inventory must identify, at a minimum, the location of each generator, the number of generators stored at each specific location, the agency to which each the generator belongs, the primary use of the generator by the owner agency, and the names, addresses, and telephone numbers of persons having the authority to loan the stored generators as authorized by the Division of Emergency Management during a declared emergency.

(t) The division shall maintain an inventory list of generators owned by the state and local governments. In addition, the division may keep a list of private entities, along with appropriate contact information, which offer generators for sale or lease. The list of private entities shall be available to the public for inspection in written and electronic formats.

Section 14. There is appropriated \$76,150 in nonrecurring general revenue funds to the Department of Community Affairs for a study on the feasibility of incorporating nongovernment agencies and private entities into the logistical supply and distribution system for essential commodities. This section takes effect July 1, 2006.

Section 15. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 16. Effective July 1, 2006, section 252.355, Florida Statutes, is amended to read:

252.355 Registry of persons with special needs; notice.—

(1) In order to meet the special needs of persons who would need assistance during evacuations and sheltering because of physical, mental, cognitive impairment, or sensory disabilities, each local emergency management agency in the state shall maintain a registry of persons with special needs located within the jurisdiction of the local agency. The registration shall identify those persons in need of assistance and plan for resource allocation to meet those identified needs. To assist the local emergency management agency in identifying such persons, home health agencies, hospices, nurse registries, home medical equipment providers, the Department of Children and Family Services, Department of Health, Agency for Health Care Administration, Department of Education, Agency for Persons with Disabilities, Labor and Employment Security, and Department of Elderly Affairs shall provide registration information to all of their special needs clients and to all persons with special needs who receive services incoming clients as a part of the intake process. The registry shall be updated annually. The registration program shall give persons with special needs the option of preauthorizing emergency response personnel to enter their homes during search and rescue operations if necessary to assure their safety and welfare following disasters.

(2) The Department of Community Affairs shall be the designated lead agency responsible for community education and outreach to the public,

including special needs clients, regarding registration and special needs shelters and general information regarding shelter stays.

(3) A person with special needs must be allowed to bring his or her service animal into a special needs shelter in accordance with s. 413.08.

(4)(a)(2) On or before ~~May 31~~ ~~May 1~~ of each year each electric utility in the state shall annually notify residential customers in its service area of the availability of the registration program available through their local emergency management agency by:-

1. An initial notification upon the activation of new residential service with the electric utility, followed by one annual notification between January 1 and May 31; or

2. Two separate annual notifications between January 1 and May 31.

(b) The notification may be made by any available means, including, but not limited to, written, electronic, or verbal notification, and may be made concurrently with any other notification to residential customers required by law or rule.

(5)(3) All records, data, information, correspondence, and communications relating to the registration of persons with special needs as provided in subsection (1) are confidential and exempt from the provisions of s. 119.07(1), except that such information shall be available to other emergency response agencies, as determined by the local emergency management director. Local law enforcement agencies shall be given complete shelter roster information upon request.

(6)(4) All appropriate agencies and community-based service providers, including home health care providers, hospices, nurse registries, and home medical equipment providers, shall assist emergency management agencies by collecting registration information for persons with special needs as part of program intake processes, establishing programs to increase the awareness of the registration process, and educating clients about the procedures that may be necessary for their safety during disasters. Clients of state or federally funded service programs with physical, mental, cognitive impairment, or sensory disabilities who need assistance in evacuating, or when in shelters, must register as persons with special needs.

Section 17. Effective July 1, 2006, section 252.3568, Florida Statutes, is created to read:

252.3568 Emergency sheltering of persons with pets.—In accordance with s. 252.35, the division shall address strategies for the evacuation of persons with pets in the shelter component of the state comprehensive emergency management plan and shall include the requirement for similar strategies in its standards and requirements for local comprehensive emergency management plans. The Department of Agriculture and Consumer Services shall assist the division in determining strategies regarding this activity.

Section 18. Effective July 1, 2006, section 252.357, Florida Statutes, is created to read:

252.357 Monitoring of nursing homes and assisted living facilities during disaster.—The Florida Comprehensive Emergency Management Plan shall permit the Agency for Health Care Administration, working from the agency's offices or in the Emergency Operations Center, ESF-8, to make initial contact with each nursing home and assisted living facility in the disaster area. The agency, by July 15, 2006, and annually thereafter, shall publish on the Internet an emergency telephone number that may be used by nursing homes and assisted living facilities to contact the agency on a schedule established by the agency to report requests for assistance. The agency may also provide the telephone number to each facility when it makes the initial facility call.

Section 19. Effective July 1, 2006, subsections (2) and (4) of section 252.385, Florida Statutes, are amended to read:

252.385 Public shelter space.—

(2)(a) The division shall administer a program to survey existing schools, universities, community colleges, and other state-owned, municipally owned, and county-owned public buildings and any private facility that the owner, in writing, agrees to provide for use as a public hurricane evacuation shelter to identify those that are appropriately designed and located to serve as such shelters. The owners of the facilities must be given the opportunity to participate in the surveys. ~~The state university boards of trustees Board of Regents,~~ district school boards, community college boards of trustees, and the Department of Education are responsible for coordinating and implementing the survey of public schools, universities, and community colleges with the division or the local emergency management agency.

(b) By January 31 of each even-numbered year, the division shall prepare and submit a statewide emergency shelter plan to the Governor and Cabinet for approval, subject to the requirements for approval in s. 1013.37(2). The plan shall identify the general location and square footage of special needs shelters, by regional planning council region, during the next 5 years. The plan shall also include information on the availability of shelters that accept pets. The Department of Health shall assist the division in determining the estimated need for special needs shelter space and the adequacy of facilities to meet the needs of persons with special needs based on information from the registries of persons with special needs and other information.

(4)(a) Public facilities, including schools, postsecondary education facilities, and other facilities owned or leased by the state or local governments, but excluding hospitals, hospice care facilities, assisted living facilities, and ~~or~~ nursing homes, which are suitable for use as public hurricane evacuation shelters shall be made available at the request of the local emergency management agencies. The local emergency management agency shall coordinate with these entities to ensure that designated facilities are ready to activate prior to a specific hurricane or disaster. Such agencies shall coordinate with the appropriate school board, university, community college, or

local governing board when requesting the use of such facilities as public hurricane evacuation shelters.

(b) The Department of Management Services shall incorporate provisions for the use of suitable leased public facilities as public hurricane evacuation shelters into lease agreements for state agencies. Suitable leased public facilities include leased public facilities that are solely occupied by state agencies and have at least 2,000 square feet of net floor area in a single room or in a combination of rooms having a minimum of 400 square feet in each room. The net square footage of floor area shall ~~must~~ be determined by subtracting from the gross square footage the square footage of spaces such as mechanical and electrical rooms, storage rooms, open corridors, restrooms, kitchens, science or computer laboratories, shop or mechanical areas, administrative offices, records vaults, and crawl spaces.

(c) The Department of Management Services shall, in consultation with local and state emergency management agencies, assess Department of Management Services facilities to identify the extent to which each facility has public hurricane evacuation shelter space. The Department of Management Services shall submit proposed facility retrofit projects that incorporate hurricane protection enhancements to the department for assessment and inclusion in the annual report prepared in accordance with subsection (3).

Section 20. Effective July 1, 2006, section 381.0303, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 381.0303, F.S., for present text.)

381.0303 Special needs shelters.—

(1) PURPOSE.—The purpose of this section is to provide for the operation and closure of special needs shelters and to designate the Department of Health, through its county health departments, as the lead agency for coordination of the recruitment of health care practitioners, as defined in s. 456.001(4), to staff special needs shelters in times of emergency or disaster and to provide resources to the department to carry out this responsibility. However, nothing in this section prohibits a county health department from entering into an agreement with a local emergency management agency to assume the lead responsibility for recruiting health care practitioners.

(2) SPECIAL NEEDS SHELTER PLAN; STAFFING; STATE AGENCY ASSISTANCE.—If funds have been appropriated to support disaster coordinator positions in county health departments:

(a) The department shall assume lead responsibility for the coordination of local medical and health care providers, the American Red Cross, and other interested parties in developing a plan for the staffing and medical management of special needs shelters. The local Children's Medical Services offices shall assume lead responsibility for the coordination of local medical and health care providers, the American Red Cross, and other interested parties in developing a plan for the staffing and medical management of

pediatric special needs shelters. Plans must conform to the local comprehensive emergency management plan.

(b) County health departments shall, in conjunction with the local emergency management agencies, have the lead responsibility for coordination of the recruitment of health care practitioners to staff local special needs shelters. County health departments shall assign their employees to work in special needs shelters when those employees are needed to protect the health and safety of persons with special needs. County governments shall assist the department with nonmedical staffing and the operation of special needs shelters. The local health department and emergency management agency shall coordinate these efforts to ensure appropriate staffing in special needs shelters.

(c) The appropriate county health department, Children's Medical Services office, and local emergency management agency shall jointly decide who has responsibility for medical supervision in each special needs shelter.

(d) Local emergency management agencies shall be responsible for the designation and operation of special needs shelters during times of emergency or disaster and the closure of the facilities following an emergency or disaster. The local health department and emergency management agency shall coordinate these efforts to ensure the appropriate designation and operation of special needs shelters. County health departments shall assist the local emergency management agency with regard to the management of medical services in special needs shelters.

(e) The Secretary of Elderly Affairs, or his or her designee, shall convene, at any time that he or she deems appropriate and necessary, a multiagency special needs shelter discharge planning team to assist local areas that are severely impacted by a natural or manmade disaster that requires the use of special needs shelters. Multiagency special needs shelter discharge planning teams shall provide assistance to local emergency management agencies with the continued operation or closure of the shelters, as well as with the discharge of special needs clients to alternate facilities if necessary. Local emergency management agencies may request the assistance of a multiagency special needs shelter discharge planning team by alerting statewide emergency management officials of the necessity for additional assistance in their area. The Secretary of Elderly Affairs is encouraged to proactively work with other state agencies prior to any natural disasters for which warnings are provided to ensure that multiagency special needs shelter discharge planning teams are ready to assemble and deploy rapidly upon a determination by state emergency management officials that a disaster area requires additional assistance. The Secretary of Elderly Affairs may call upon any state agency or office to provide staff to assist a multiagency special needs shelter discharge planning team. Unless the secretary determines that the nature or circumstances surrounding the disaster do not warrant participation from a particular agency's staff, each multiagency special needs shelter discharge planning team shall include at least one representative from each of the following state agencies:

1. Department of Elderly Affairs.

2. Department of Health.
3. Department of Children and Family Services.
4. Department of Veterans' Affairs.
5. Department of Community Affairs.
6. Agency for Health Care Administration.
7. Agency for Persons with Disabilities.

(3) REIMBURSEMENT TO HEALTH CARE PRACTITIONERS AND FACILITIES.—

(a) The department shall, upon request, reimburse in accordance with paragraph (b):

1. Health care practitioners, as defined in s. 456.001, provided the practitioner is not providing care to a patient under an existing contract, and emergency medical technicians and paramedics licensed under chapter 401 for medical care provided at the request of the department in special needs shelters or at other locations during times of emergency or a declared disaster. Reimbursement for health care practitioners, except for physicians licensed under chapter 458 or chapter 459, shall be based on the average hourly rate that such practitioners were paid according to the most recent survey of Florida hospitals conducted by the Florida Hospital Association or other nationally recognized or state-recognized data source.

2. Health care facilities, such as hospitals, nursing homes, assisted living facilities, and community residential homes, if, upon closure of a special needs shelter, a multiagency special needs shelter discharge planning team determines that it is necessary to discharge persons with special needs to other health care facilities. The receiving facilities are eligible for reimbursement for services provided to the individuals for up to 90 days. A facility must show proof of a written request from a representative of an agency serving on the multiagency special needs shelter discharge planning team that the individual for whom the facility is seeking reimbursement for services rendered was referred to that facility from a special needs shelter. The department shall specify by rule which expenses are reimbursable and the rate of reimbursement for each service.

(b) Reimbursement is subject to the availability of federal funds and shall be requested on forms prepared by the department. If a Presidential Disaster Declaration has been issued, the department shall request federal reimbursement of eligible expenditures. The department may not provide reimbursement to facilities under this subsection for services provided to a person with special needs if, during the period of time in which the services were provided, the individual was enrolled in another state-funded program, such as Medicaid or another similar program, was covered under a policy of health insurance as defined in s. 624.603, or was a member of a health maintenance organization or prepaid health clinic as defined in chapter 641, which would otherwise pay for the same services. Travel expense and per diem costs shall be reimbursed pursuant to s. 112.061.

(4) HEALTH CARE PRACTITIONER REGISTRY.—The department may use the registries established in ss. 401.273 and 456.38 when health care practitioners are needed to staff special needs shelters or to assist with other disaster-related activities.

(5) SPECIAL NEEDS SHELTER INTERAGENCY COMMITTEE.—The Secretary of Health may establish a special needs shelter interagency committee and serve as, or appoint a designee to serve as, the committee's chair. The department shall provide any necessary staff and resources to support the committee in the performance of its duties. The committee shall address and resolve problems related to special needs shelters not addressed in the state comprehensive emergency medical plan and shall consult on the planning and operation of special needs shelters.

(a) The committee shall:

1. Develop, negotiate, and regularly review any necessary interagency agreements.

2. Undertake other such activities as the department deems necessary to facilitate the implementation of this section.

3. Submit recommendations to the Legislature as necessary.

(b) The special needs shelter interagency committee shall be composed of representatives of emergency management, health, medical, and social services organizations. Membership shall include, but shall not be limited to, representatives of the Departments of Health, Community Affairs, Children and Family Services, Elderly Affairs, and Education; the Agency for Health Care Administration; the Florida Medical Association; the Florida Osteopathic Medical Association; Associated Home Health Industries of Florida, Inc.; the Florida Nurses Association; the Florida Health Care Association; the Florida Assisted Living Affiliation; the Florida Hospital Association; the Florida Statutory Teaching Hospital Council; the Florida Association of Homes for the Aging; the Florida Emergency Preparedness Association; the American Red Cross; Florida Hospices and Palliative Care, Inc.; the Association of Community Hospitals and Health Systems; the Florida Association of Health Maintenance Organizations; the Florida League of Health Systems; the Private Care Association; the Salvation Army; the Florida Association of Aging Services Providers; the AARP; and the Florida Renal Coalition.

(c) Meetings of the committee shall be held in Tallahassee, and members of the committee shall serve at the expense of the agencies or organizations they represent. The committee shall make every effort to use teleconference or video conference capabilities in order to ensure statewide input and participation.

(6) RULES.—The department has the authority to adopt rules necessary to implement this section. Rules shall include:

(a) The definition of a “person with special needs,” including eligibility criteria for individuals with physical, mental, cognitive impairment, or sen-

sory disabilities and the services a person with special needs can expect to receive in a special needs shelter.

(b) The process for special needs shelter health care practitioners and facility reimbursement for services provided in a disaster.

(c) Guidelines for special needs shelter staffing levels to provide services.

(d) The definition of and standards for special needs shelter supplies and equipment, including durable medical equipment.

(e) Standards for the special needs shelter registration process, including guidelines for addressing the needs of unregistered persons in need of a special needs shelter.

(f) Standards for addressing the needs of families where only one dependent is eligible for admission to a special needs shelter and the needs of adults with special needs who are caregivers for individuals without special needs.

(g) The requirement of the county health departments to seek the participation of hospitals, nursing homes, assisted living facilities, home health agencies, hospice providers, nurse registries, home medical equipment providers, dialysis centers, and other health and medical emergency preparedness stakeholders in pre-event planning activities.

(7) EMERGENCY MANAGEMENT PLANS.—The submission of emergency management plans to county health departments by home health agencies, nurse registries, hospice programs, and home medical equipment providers is conditional upon receipt of an appropriation by the department to establish disaster coordinator positions in county health departments unless the secretary of the department and a local county commission jointly determine to require that such plans be submitted based on a determination that there is a special need to protect public health in the local area during an emergency.

Section 21. Effective July 1, 2006, section 400.492, Florida Statutes, is amended to read:

400.492 Provision of services during an emergency.—Each home health agency shall prepare and maintain a comprehensive emergency management plan that is consistent with the standards adopted by national or state accreditation organizations and consistent with the local special needs plan. The plan shall be updated annually and shall provide for continuing home health services during an emergency that interrupts patient care or services in the patient's home. The plan shall include the means by which the home health agency will continue to provide staff to perform the same type and quantity of services to their patients who evacuate to special needs shelters that were being provided to those patients prior to evacuation. The plan shall describe how the home health agency establishes and maintains an effective response to emergencies and disasters, including: notifying staff when emergency response measures are initiated; providing for communication between staff members, county health departments, and local emer-

gency management agencies, including a backup system; identifying resources necessary to continue essential care or services or referrals to other organizations subject to written agreement; and prioritizing and contacting patients who need continued care or services.

(1) Each patient record for patients who are listed in the registry established pursuant to s. 252.355 shall include a description of how care or services will be continued in the event of an emergency or disaster. The home health agency shall discuss the emergency provisions with the patient and the patient's caregivers, including where and how the patient is to evacuate, procedures for notifying the home health agency in the event that the patient evacuates to a location other than the shelter identified in the patient record, and a list of medications and equipment which must either accompany the patient or will be needed by the patient in the event of an evacuation.

(2) Each home health agency shall maintain a current prioritized list of patients who need continued services during an emergency. The list shall indicate how services shall be continued in the event of an emergency or disaster for each patient and if the patient is to be transported to a special needs shelter, and shall indicate if the patient is receiving skilled nursing services and the patient's medication and equipment needs. The list shall be furnished to county health departments and to local emergency management agencies, upon request.

(3) Home health agencies shall not be required to continue to provide care to patients in emergency situations that are beyond their control and that make it impossible to provide services, such as when roads are impassable or when patients do not go to the location specified in their patient records. Home health agencies may establish links to local emergency operations centers to determine a mechanism by which to approach specific areas within a disaster area in order for the agency to reach its clients. Home health agencies shall demonstrate a good faith effort to comply with the requirements of this subsection by documenting attempts of staff to follow procedures outlined in the home health agency's comprehensive emergency management plan, and by the patient's record, which support a finding that the provision of continuing care has been attempted for those patients who have been identified as needing care by the home health agency and registered under s. 252.355, in the event of an emergency or disaster under subsection (1).

(4) Notwithstanding the provisions of s. 400.464(2) or any other provision of law to the contrary, a home health agency may provide services in a special needs shelter located in any county.

Section 22. Effective July 1, 2006, subsection (8) of section 400.497, Florida Statutes, is amended to read:

400.497 Rules establishing minimum standards.—The agency shall adopt, publish, and enforce rules to implement this part, including, as applicable, ss. 400.506 and 400.509, which must provide reasonable and fair minimum standards relating to:

(8) Preparation of a comprehensive emergency management plan pursuant to s. 400.492.

(a) The Agency for Health Care Administration shall adopt rules establishing minimum criteria for the plan and plan updates, with the concurrence of the Department of Health and in consultation with the Department of Community Affairs.

(b) The rules must address the requirements in s. 400.492. In addition, the rules shall provide for the maintenance of patient-specific medication lists that can accompany patients who are transported from their homes.

(c) The plan is subject to review and approval by the county health department. During its review, the county health department shall contact state and local health and medical stakeholder when necessary, ensure that the following agencies, at a minimum, are given the opportunity to review the plan:

1. ~~The local emergency management agency.~~
2. ~~The Agency for Health Care Administration.~~
3. ~~The local chapter of the American Red Cross or other lead sheltering agency.~~
4. ~~The district office of the Department of Children and Family Services.~~

The county health department shall complete its review to ensure that the plan is in accordance with the criteria in the Agency for Health Care Administration rules within 90 60 days after receipt of the plan and shall either approve the plan or advise the home health agency of necessary revisions. If the home health agency fails to submit a plan or fails to submit the requested information or revisions to the county health department within 30 days after written notification from the county health department, the county health department shall notify the Agency for Health Care Administration. The agency shall notify the home health agency that its failure constitutes a deficiency, subject to a fine of \$5,000 per occurrence. If the plan is not submitted, information is not provided, or revisions are not made as requested, the agency may impose the fine.

(d) For any home health agency that operates in more than one county, the Department of Health shall review the plan, after consulting with state and local health and medical stakeholders when necessary all of the county health departments, the agency, and all the local chapters of the American Red Cross or other lead sheltering agencies in the areas of operation for that particular home health agency. The department of Health shall complete its review within 90 days after receipt of the plan and shall either approve the plan or advise the home health agency of necessary revisions. The department of Health shall make every effort to avoid imposing differing requirements on a home health agency that operates in more than one county as a result of differing or conflicting comprehensive plan requirements of the based on differences between counties in which ~~on~~ the home health agency operates.

(e) The requirements in this subsection do not apply to:

1. A facility that is certified under chapter 651 and has a licensed home health agency used exclusively by residents of the facility; or

2. A retirement community that consists of residential units for independent living and either a licensed nursing home or an assisted living facility, and has a licensed home health agency used exclusively by the residents of the retirement community, provided the comprehensive emergency management plan for the facility or retirement community provides for continuous care of all residents with special needs during an emergency.

Section 23. Effective July 1, 2006, subsection (16) of section 400.506, Florida Statutes, is amended to read:

400.506 Licensure of nurse registries; requirements; penalties.—

(16) Each nurse registry shall prepare and maintain a comprehensive emergency management plan that is consistent with the criteria in this subsection and with the local special needs plan. The plan shall be updated annually. The plan shall include the means by which the nurse registry will continue to provide the same type and quantity of services to its patients who evacuate to special needs shelters which were being provided to those patients prior to evacuation. The plan shall specify how the nurse registry shall facilitate the provision of continuous care by persons referred for contract to persons who are registered pursuant to s. 252.355 during an emergency that interrupts the provision of care or services in private residences. Nurse registries may establish links to local emergency operations centers to determine a mechanism by which to approach specific areas within a disaster area in order for a provider to reach its clients. Nurse registries shall demonstrate a good-faith effort to comply with the requirements of this subsection by documenting attempts of staff to follow procedures outlined in the nurse registry's comprehensive emergency management plan which support a finding that the provision of continuing care has been attempted for patients identified as needing care by the nurse registry and registered under s. 252.355 in the event of an emergency under s. 400.506(1).

(a) All persons referred for contract who care for persons registered pursuant to s. 252.355 must include in the patient record a description of how care will be continued during a disaster or emergency that interrupts the provision of care in the patient's home. It shall be the responsibility of the person referred for contract to ensure that continuous care is provided.

(b) Each nurse registry shall maintain a current prioritized list of patients in private residences who are registered pursuant to s. 252.355 and are under the care of persons referred for contract and who need continued services during an emergency. This list shall indicate, for each patient, if the client is to be transported to a special needs shelter and if the patient is receiving skilled nursing services. Nurse registries shall make this list available to county health departments and to local emergency management agencies upon request.

(c) Each person referred for contract who is caring for a patient who is registered pursuant to s. 252.355 shall provide a list of the patient's medication and equipment needs to the nurse registry. Each person referred for contract shall make this information available to county health departments and to local emergency management agencies upon request.

(d) Each person referred for contract shall not be required to continue to provide care to patients in emergency situations that are beyond the person's control and that make it impossible to provide services, such as when roads are impassable or when patients do not go to the location specified in their patient records.

(e) The comprehensive emergency management plan required by this subsection is subject to review and approval by the county health department. During its review, the county health department shall contact state and local health and medical stakeholders when necessary ensure that, at a minimum, the local emergency management agency, the Agency for Health Care Administration, and the local chapter of the American Red Cross or other lead sheltering agency are given the opportunity to review the plan. The county health department shall complete its review to ensure that the plan complies with the criteria in the Agency for Health Care Administration rules within 90 60 days after receipt of the plan and shall either approve the plan or advise the nurse registry of necessary revisions. If a nurse registry fails to submit a plan or fails to submit requested information or revisions to the county health department within 30 days after written notification from the county health department, the county health department shall notify the Agency for Health Care Administration. The agency shall notify the nurse registry that its failure constitutes a deficiency, subject to a fine of \$5,000 per occurrence. If the plan is not submitted, information is not provided, or revisions are not made as requested, the agency may impose the fine.

(f) The Agency for Health Care Administration shall adopt rules establishing minimum criteria for the comprehensive emergency management plan and plan updates required by this subsection, with the concurrence of the Department of Health and in consultation with the Department of Community Affairs.

Section 24. Effective July 1, 2006, subsection (1) of section 400.610, Florida Statutes, is amended to read:

400.610 Administration and management of a hospice.—

(1) A hospice shall have a clearly defined organized governing body, consisting of a minimum of seven persons who are representative of the general population of the community served. The governing body shall have autonomous authority and responsibility for the operation of the hospice and shall meet at least quarterly. The governing body shall:

(a) Adopt an annual plan for the operation of the hospice, which shall include a plan for providing for uncompensated care and philanthropic community activities.

(b)1. Prepare and maintain a comprehensive emergency management plan that provides for continuing hospice services in the event of an emergency that is consistent with local special needs plans. The plan shall include provisions for ensuring continuing care to hospice patients who go to special needs shelters. The plan shall include the means by which the hospice provider will continue to provide staff to provide the same type and quantity of services to their patients who evacuate to special needs shelters which were being provided to those patients prior to evacuation. The plan is subject to review and approval by the county health department, except as provided in subparagraph 2. During its review, the county health department shall contact state and local health and medical stakeholders when necessary ensure that the department, the agency, and the local chapter of the American Red Cross or other lead sheltering agency have an opportunity to review and comment on the plan. The county health department shall complete its review to ensure that the plan complies with criteria in rules of the Department of Elderly Affairs within 90 60 days after receipt of the plan and shall either approve the plan or advise the hospice of necessary revisions. Hospice providers may establish links to local emergency operations centers to determine a mechanism by which to approach specific areas within a disaster area in order for the provider to reach its clients. A hospice shall demonstrate a good-faith effort to comply with the requirements of this paragraph by documenting attempts of staff to follow procedures as outlined in the hospice's comprehensive emergency management plan and to provide continuing care for those hospice clients who have been identified as needing alternative caregiver services in the event of an emergency.

2. For any hospice that operates in more than one county, the Department of Health during its review shall contact state and local health and medical stakeholders when necessary ~~review the plan, after consulting with all of the county health departments, the agency, and all the local chapters of the American Red Cross or other lead sheltering agency in the areas of operation for that particular hospice.~~ The Department of Health shall complete its review to ensure that the plan complies with criteria in rules of the Department of Elderly Affairs within 90 days after receipt of the plan and shall either approve the plan or advise the hospice of necessary revisions. The Department of Health shall make every effort to avoid imposing ~~on the hospice differing requirements on a hospice that operates in more than one county as a result of differing or conflicting comprehensive plan requirements of the based on differences between counties in which the hospice operates.~~

(c) Adopt an annual budget.

(d) Appoint a director who shall be responsible for the day-to-day management and operation of the hospice and who shall serve as the liaison between the governing body and the hospice staff.

(e) Undertake such additional activities as necessary to ensure that the hospice is complying with the requirements for hospice services as set forth in this part.

Section 25. Effective July 1, 2006, present subsections (13) through (16) of section 400.925, Florida Statutes, are redesignated as subsections (14)

through (17) respectively, and a new subsection (13) is added to that section, to read:

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

(13) “Life-supporting or life-sustaining equipment” means a device that is essential to, or that yields information that is essential to, the restoration or continuation of a bodily function important to the continuation of human life. Life-supporting or life-sustaining equipment includes apnea monitors, enteral feeding pumps, infusion pumps, portable home dialysis equipment, and ventilator equipment and supplies for all related equipment, including oxygen equipment and related respiratory equipment.

Section 26. Effective July 1, 2006, subsections (20), (21), and (22) are added to section 400.934, Florida Statutes, to read:

400.934 Minimum standards.—As a requirement of licensure, home medical equipment providers shall:

(20)(a) Prepare and maintain a comprehensive emergency management plan that meets minimum criteria established by agency rule under s. 400.935. The plan shall be updated annually and shall provide for continuing home medical equipment services for life-supporting or life-sustaining equipment, as defined in s. 400.925, during an emergency that interrupts home medical equipment services in a patient’s home. The plan shall include:

1. The means by which the home medical equipment provider will continue to provide equipment to perform the same type and quantity of services to its patients who evacuate to special needs shelters which were being provided to those patients prior to evacuation.

2. The means by which the home medical equipment provider establishes and maintains an effective response to emergencies and disasters, including plans for:

a. Notification of staff when emergency response measures are initiated.

b. Communication between staff members, county health departments, and local emergency management agencies, which includes provisions for a backup communications system.

c. Identification of resources necessary to continue essential care or services or referrals to other organizations subject to written agreement.

d. Contacting and prioritizing patients in need of continued medical equipment services and supplies.

(b) The plan is subject to review and approval by the county health department. During its review, the county health department shall contact state and local health and medical stakeholders when necessary. The county health department shall complete its review to ensure that the plan is in accordance with the criteria in the Agency for Health Care Administration rules within 90 days after receipt of the plan. If a home medical equipment

provider fails to submit a plan or fails to submit requested information or revisions to the county health department within 30 days after written notification from the county health department, the county health department shall notify the Agency for Health Care Administration. The agency shall notify the home medical equipment provider that such failure constitutes a deficiency, subject to a fine of \$5,000 per occurrence. If the plan is not submitted, information is not provided, or revisions are not made as requested, the agency may impose the fine.

(21) Each home medical equipment provider shall maintain a current prioritized list of patients who need continued services during an emergency. The list shall indicate the means by which services shall be continued for each patient in the event of an emergency or disaster, whether the patient is to be transported to a special needs shelter, and whether the patient has life-supporting or life-sustaining equipment, including the specific type of equipment and related supplies. The list shall be furnished to county health departments and local emergency management agencies upon request.

(22) Home medical equipment providers may establish links to local emergency operations centers to determine a mechanism by which to approach specific areas within a disaster area in order for the provider to reach its patients.

Section 27. Effective July 1, 2006, subsection (11) is added to section 400.935, Florida Statutes, to read:

400.935 Rules establishing minimum standards.—The agency shall adopt, publish, and enforce rules to implement this part, which must provide reasonable and fair minimum standards relating to:

(11) Preparation of the comprehensive emergency management plan under s. 400.934 and the establishment of minimum criteria for the plan, including the maintenance of patient equipment and supply lists that can accompany patients who are transported from their homes. Such rules shall be formulated in consultation with the Department of Health and the Department of Community Affairs.

Section 28. Effective July 1, 2006, section 408.831, Florida Statutes, is amended to read:

408.831 Denial, suspension, or revocation of a license, registration, certificate, or application.—

(1) In addition to any other remedies provided by law, the agency may deny each application or suspend or revoke each license, registration, or certificate of entities regulated or licensed by it:

(a) If the applicant, licensee, registrant, or certificateholder, or, in the case of a corporation, partnership, or other business entity, if any officer, director, agent, or managing employee of that business entity or any affiliated person, partner, or shareholder having an ownership interest equal to 5 percent or greater in that business entity, has failed to pay all outstanding

finances, liens, or overpayments assessed by final order of the agency or final order of the Centers for Medicare and Medicaid Services, not subject to further appeal, unless a repayment plan is approved by the agency; or

(b) For failure to comply with any repayment plan.

(2) In reviewing any application requesting a change of ownership or change of the licensee, registrant, or certificateholder, the transferor shall, prior to agency approval of the change, repay or make arrangements to repay any amounts owed to the agency. Should the transferor fail to repay or make arrangements to repay the amounts owed to the agency, the issuance of a license, registration, or certificate to the transferee shall be delayed until repayment or until arrangements for repayment are made.

(3) An entity subject to this section may exceed its licensed capacity to act as a receiving facility in accordance with an emergency operations plan for clients of evacuating providers from a geographic area where an evacuation order has been issued by a local authority having jurisdiction. While in an overcapacity status, each provider must furnish or arrange for appropriate care and services to all clients. In addition, the agency may approve requests for overcapacity beyond 15 days, which approvals may be based upon satisfactory justification and need as provided by the receiving and sending facilities.

(4)(a) An inactive license may be issued to a licensee subject to this section when the provider is located in a geographic area where a state of emergency was declared by the Governor if the provider:

1. Suffered damage to its operation during that state of emergency.
2. Is currently licensed.
3. Does not have a provisional license.
4. Will be temporarily unable to provide services but is reasonably expected to resume services within 12 months.

(b) An inactive license may be issued for a period not to exceed 12 months but may be renewed by the agency for up to 12 additional months upon demonstration to the agency of progress toward reopening. A request by a licensee for an inactive license or to extend the previously approved inactive period must be submitted in writing to the agency, accompanied by written justification for the inactive license, which states the beginning and ending dates of inactivity and includes a plan for the transfer of any clients to other providers and appropriate licensure fees. Upon agency approval, the licensee shall notify clients of any necessary discharge or transfer as required by authorizing statutes or applicable rules. The beginning of the inactive licensure period shall be the date the provider ceases operations. The end of the inactive period shall become the licensee expiration date, and all licensure fees must be current, paid in full, and may be prorated. Reactivation of an inactive license requires the prior approval by the agency of a renewal application, including payment of licensure fees and agency inspections indicating compliance with all requirements of this part and applicable rules and statutes.

~~(5)~~(3) This section provides standards of enforcement applicable to all entities licensed or regulated by the Agency for Health Care Administration. This section controls over any conflicting provisions of chapters 39, 381, 383, 390, 391, 393, 394, 395, 400, 408, 468, 483, and 641 or rules adopted pursuant to those chapters.

Section 29. Emergency-preparedness prescription medication refills.— All health insurers, managed care organizations, and other entities that are licensed by the Office of Insurance Regulation and provide prescription medication coverage as part of a policy or contract shall waive time restrictions on prescription medication refills, which includes suspension of electronic “refill too soon” edits to pharmacies, to enable insureds or subscribers to refill prescriptions in advance, if there are authorized refills remaining, and shall authorize payment to pharmacies for at least a thirty day supply of any prescription medication, regardless of the date upon which the prescription had most recently been filled by a pharmacist, when the following conditions occur:

(1) The person seeking the prescription medication refill resides in a county that:

(a) Is under a hurricane warning issued by the National Weather Service;

(b) Is declared to be under a state of emergency in an executive order issued by the Governor; or

(c) Has activated its emergency operations center and its emergency management plan.

(2) The prescription medication refill is requested within 30 days after the origination date of the conditions stated in this section or until such conditions are terminated by the issuing authority or no longer exists. The time period for the waiver of prescription medication refills may be extended in 15- or 30-day increments by emergency orders issued by the Office of Insurance Regulation.

This section does not excuse or exempt an insured or subscriber from compliance with all other terms of the policy or contract providing prescription medication coverage. This section takes effect July 1, 2006.

Section 30. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor June 1, 2006.

Filed in Office Secretary of State June 1, 2006.