CHAPTER 2007-5

House Bill No. 7003

An act relating to the Florida Statutes; amending ss. 11.0451, 39.5085, 39.6013, 39.6221, 61.076, 63.032, 110.1155, 112.32151, 163.370, 166.271, 171.205, 189.4155, 195.096, 196.012, 201.0205, 202.24, 205.1975, 212.08, 213.053, 213.0535, 215.82, 218.64, 220.181, 220.183, 250.01, 250.82, 250.84, 252.35, 255.25001, 259.1053, 260.016, 287.0574, 288.039, 288.1045, 288.106, 288.90151, 290.0057, 290.0072, 320.77, 322.2615, 328.64, 331.312, 331.313, 331.316, 331.319, 331.324, 336.68, 341.840, 366.93, 370.063, 375.065, 376.30, 376.301, 376.303, 376.305, 376.307, 376.3071, 376.3075, 376.30781, 376.3079, 376.308, 376.309, 376.313, 376.315, 376.317, 376.82, 376.84, 380.06, 380.23, 381.028, 400.0073, 400.0074, 400.0075, 400.506, 402.164, 403.091, 403.5175, 403.526, 403.5271, 403.528, 403.7043, 403.708, 408.036, 408.802, 408.803, 408.806, 408.820, 408.832, 409.1685, 409.221, 409.908, 409.912, 409.91211, 419.001, 421.49, 429.07, 429.35, 429.69, 429.73, 429.903, 429.909, 429.915, 429.919, 435.03, 435.04, 456.072, 458.348, 458.3485, 459.025, 482.242, 483.285, 489.127, 489.128, 489.131, 489.532, 497.461, 499.029, 500.511, 501.016, 501.143, 501.160, 509.233, 516.05, 551.101, 559.939, 607.0130, 607.193, 620.2113, 620.2118, 620.8911, 624.5105, 626.022, 626.171, 626.935, 626.9912, 627.351, 627.6617, 633.0245, 679.4031, 679.707, 727.109, 736.1001, 736.1209, 743.09, 775.21, 794.056, 817.36, 827.06, 847.001, 849.09, 849.15, 921.0022, 933.07, 943.0435, 943.325, 944.606, 944.607, 984.19, 985.483, 985.565, 1001.25, 1001.73, 1002.01, 1002.20, 1002.335, 1003.51, 1004.28, 1008.33, 1008.345, 1011.62, 1011.71, 1012.21, 1012.22, 1013.11, and 1013.721, F.S.; reenacting and amending s. 215.559, F.S.; reenacting ss. 316.006 and 1008.22, F.S.; and repealing ss. 253.421, 253.422, 288.1231, 288.1232, 288.1233, 288.1235, 288.1236, 288.1237, and 947.022, F.S.; pursuant to s. 11.242, F.S.; deleting provisions that have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; improving the clarity of the statutes and facilitating their correct interpretation; confirming the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process; and conforming to the directive of the Legislature in s. 1, ch. 93-199, Laws of Florida, to remove gender-specific references applicable to human beings from the Florida Statutes without substantive change in legal effect; providing an effective date.

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

Section 1. Section 11.0451, Florida Statutes, is amended to read:

11.0451 Requirements for reinstitution of lobbyist registration after felony conviction.—A person convicted of a felony after January 1, 2006, may not be registered as a lobbyist pursuant to s. 11.045 ~~or s. 112.3125~~ until the person:

(1) Has been released from incarceration and any postconviction supervision, and has paid all court costs and court-ordered restitution; and

(2) Has had his or her civil rights restored.

Reviser's note.—Amended to delete redundancy in the statutes, as such prohibition relating to executive branch lobbyist registration already exists in s. 112.32151.

Section 2. Paragraph (a) of subsection (2) of section 39.5085, Florida Statutes, is amended to read:

39.5085 Relative Caregiver Program.—

(2)(a) The Department of Children and Family Services shall establish and operate the Relative Caregiver Program pursuant to eligibility guidelines established in this section as further implemented by rule of the department. The Relative Caregiver Program shall, within the limits of available funding, provide financial assistance to:

1. Relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that dependent child in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the relative under this chapter.

2. Relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that dependent child, and a dependent half-brother or half-sister of that dependent child, in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the relative under this chapter.

The placement may be court-ordered temporary legal custody to the relative under protective supervision of the department pursuant to s. 39.521(1)(b)3., or court-ordered placement in the home of a relative as a permanency option under s. 39.6221 or s. 39.6231 or under <u>former</u> s. 39.622 if the placement was made before July 1, 2006. The Relative Caregiver Program shall offer financial assistance to caregivers who are relatives and who would be unable to serve in that capacity without the relative caregiver payment because of financial burden, thus exposing the child to the trauma of placement in a shelter or in foster care.

Reviser's note.—Amended to conform to the repeal of s. 39.622 by s. 35, ch. 2006-86, Laws of Florida.

Section 3. Subsection (7) of section 39.6013, Florida Statutes, is amended to read:

39.6013 Case plan amendments.—

(7) Amendments must include service interventions that are the least intrusive into the life of the parent and child, must focus on clearly defined objectives, and must provide the most efficient path to quick reunification or permanent placement given the circumstances of the case and the child's need for safe and proper care. A copy of the amended plan must be immediately given to the persons identified in s. 39.6011(6)(b) ~~39.601(1)~~.

Reviser's note.—Amended to conform to the repeal of s. 39.601 by s. 35, ch. 2006-86, Laws of Florida; s. 39.6011(6)(b), created by s. 15, ch. 2006-86, references persons who must receive case plan copies.

Section 4. Subsection (3) of section 39.6221, Florida Statutes, is amended to read:

39.6221 Permanent guardianship of a dependent child.—

(3) The court shall give the permanent guardian a separate order establishing the authority of the permanent guardian to care for the child~~, reciting what powers and duties listed in paragraph (2)(g) belong to the permanent guardian~~ and providing any other information the court deems proper which can be provided to persons who are not parties to the proceeding as necessary, notwithstanding the confidentiality provisions of s. 39.202.

Reviser's note.—Amended to conform to the fact that paragraph (2)(g) does not exist; the original version of s. 39.6221, as created by Senate Bill 1080, 2006 Regular Session, did include a paragraph (2)(g) containing a list of powers and duties, but that paragraph was deleted from the bill before passage.

Section 5. Paragraph (b) of subsection (2) of section 61.076, Florida Statutes, is amended to read:

61.076 Distribution of retirement plans upon dissolution of marriage.—

(2) If the parties were married for at least 10 years, during which at least one of the parties who was a member of the federal uniformed services performed at least 10 years of creditable service, and if the division of marital property includes a division of uniformed services retired or retainer pay, the final judgment shall include the following:

(b) Certification that the Servicemembers' ~~Soldiers' and Sailors~~' Civil Relief Act ~~of 1940~~ was observed if the decree was issued while the member was on active duty and was not represented in court;

Reviser's note.—Amended to conform to the redesignation of the federal act in Title 50 United States Code.

Section 6. Subsection (17) of section 63.032, Florida Statutes, is amended to read:

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

(17) "Primarily lives and works outside Florida" means a person who lives and works outside this state at least 6 months of the year, military personnel who designate Florida as their place of residence in accordance with the Servicemembers' ~~Soldiers' and Sailors'~~ Civil Relief Act ~~of 1940~~, or employees of the United States Department of State living in a foreign country who designate a state other than Florida as their place of residence.

Reviser's note.—Amended to conform to the redesignation of the federal act in Title 50 United States Code.

Section 7. Subsection (1) of section 110.1155, Florida Statutes, is amended to read:

110.1155 Travel to or conducting business with a country in the Western Hemisphere lacking diplomatic relations with the United States.—

(1) An officer, employee, agent, or representative of:

(a) A state agency;

(b) A political subdivision of the state; or

(c) A corporation, partnership, association, or other entity that does business or contracts with a state agency, receives state funds, or claims a credit against any tax imposed by the state

may not travel to or do business with any country located in the Western Hemisphere which lacks diplomatic relations with the United States.

Reviser's note.—Material regarding a prohibition of travel or doing business with any country meeting specifications set out at the end of what was paragraph (1)(c) was placed in a flush left paragraph at the end of subsection (1) to apply to the listed items in paragraphs (a)-(c) to provide clarity and facilitate correct interpretation.

Section 8. Section 112.32151, Florida Statutes, is amended to read:

112.32151 Requirements for reinstitution of lobbyist registration after felony conviction.—A person convicted of a felony after January 1, 2006, may not be registered as a lobbyist pursuant to s. 112.3215 ~~11.045 or s. 112.3125~~ until the person:

(1) Has been released from incarceration and any postconviction supervision, and has paid all court costs and court-ordered restitution; and

(2) Has had his or her civil rights restored.

Reviser's note.—Amended to delete redundancy in the statutes, as such prohibition relating to legislative lobbyist registration already exists in s. 11.0451, and to confirm the editorial substitution of a reference to s. 112.3215 for a reference to nonexistent s. 112.3125; s. 112.3215 relates to registration of lobbyists who lobby before the executive branch or Constitution Revision Commission.

Section 9. Paragraph (a) of subsection (4) of section 163.370, Florida Statutes, is amended to read:

163.370 Powers; counties and municipalities; community redevelopment agencies.—

(4) With the approval of the governing body, a community redevelopment agency may:

(a) Prior to approval of a community redevelopment plan or approval of any modifications of the plan, acquire real property in a community redevelopment area by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition; demolish and remove any structures on the property; and pay all costs related to the acquisition, demolition, or removal, including any administrative or relocation expenses~~, provided such acquisition is not pursuant to s. 163.375~~.

Reviser's note.—Amended to conform to the repeal of s. 163.375 by s. 11, ch. 2006-11, Laws of Florida.

Section 10. Subsection (1) and paragraph (a) of subsection (2) of section 166.271, Florida Statutes, are amended to read:

166.271 Surcharge on municipal facility parking fees.—

(1) The governing authority of any municipality with a resident population of 200,000 or more, more than 20 percent of the real property of which is exempt from ad valorem taxes, and which is located in a county with a population of more than 500,000 may impose and collect, subject to referendum approval by voters in the municipality, a discretionary per vehicle surcharge of up to 15 percent of the amount charged for the sale, lease, or rental of space at parking facilities within the municipality which are open for use to the general public and which are not airports, seaports, county administration buildings, or other projects as defined under ss. 125.011 and 125.015, provided that this surcharge shall not take effect while any surcharge imposed pursuant to s. 218.503(6)(a) ~~218.503(5)(a)~~, is in effect.

(2) A municipal governing authority that imposes the surcharge authorized by this subsection may use the proceeds of such surcharge for the following purposes only:

(a) No less than 60 percent and no more than 80 percent of surcharge proceeds shall be used to reduce the municipality's ad valorem tax millage or to reduce or eliminate non-ad valorem assessments, unless the municipality has previously used the proceeds from the surcharge levied under s. 218.503(6)(b) ~~218.503(5)(b)~~ to reduce the municipality's ad valorem tax millage or to reduce non-ad valorem assessments.

Reviser's note.—Amended to conform to the addition of new s. 218.503(4) and the redesignation of following subunits by s. 5, ch. 2006-190, Laws of Florida.

Section 11. Subsection (2) of section 171.205, Florida Statutes, is amended to read:

171.205 Consent requirements for annexation of land under this part.—Notwithstanding part I, an interlocal service boundary agreement may provide a process for annexation consistent with this section or with part I.

(2) If the area to be annexed includes a privately owned solid waste disposal facility as defined in s. 403.703(11) which receives municipal solid waste collected within the jurisdiction of multiple local governments, the annexing municipality must set forth in its plan the effects ~~affects~~ that the annexation of the solid waste disposal facility will have on the other local governments. The plan must also indicate that the owner of the affected solid waste disposal facility has been contacted in writing concerning the annexation, that an agreement between the annexing municipality and the solid waste disposal facility to govern the operations of the solid waste disposal facility if the annexation occurs has been approved, and that the owner of the solid waste disposal facility does not object to the proposed annexation.

Reviser's note.—Amended to confirm the editorial substitution of the word "effects" for the word "affects" to conform to context.

Section 12. Subsection (6) of section 189.4155, Florida Statutes, is amended to read:

189.4155 Activities of special districts; local government comprehensive planning.—

(6) Any independent district created under a special act or general law, including, but not limited to, this chapter, chapter 190, chapter 191, or chapter 298, for the purpose of providing urban infrastructure or ~~of~~ services may provide housing and housing assistance for its employed personnel whose total annual household income does not exceed 140 percent of the area median income, adjusted for family size.

Reviser's note.—Amended to confirm the editorial substitution of the word "or" for the word "of" to conform to context.

Section 13. Paragraph (f) of subsection (2) of section 195.096, Florida Statutes, is amended to read:

195.096 Review of assessment rolls.—

(2) The department shall conduct, no less frequently than once every 2 years, an in-depth review of the assessment rolls of each county. The department need not individually study every use-class of property set forth in s. 195.073, but shall at a minimum study the level of assessment in relation to just value of each classification specified in subsection (3). Such in-depth review may include proceedings of the value adjustment board and the audit or review of procedures used by the counties to appraise property.

(f) Within 120 days following the receipt of a county assessment roll by the executive director of the department pursuant to s. 193.1142(1), or within 10 days after approval of the assessment roll, whichever is later, the department shall complete the review for that county and forward its findings, including a statement of the confidence interval for the median and

such other measures as may be appropriate for each classification or subclassification studied and for the roll as a whole, employing a 95-percent level of confidence, and related statistical and analytical details to the Senate and the House of Representatives committees with oversight responsibilities for taxation, and the appropriate property appraiser. Upon releasing its findings, the department shall notify the chairperson of the appropriate county commission or the corresponding official under a consolidated charter that the department's findings are available upon request. The department shall, within 90 days after receiving a written request from the chairperson of the appropriate county commission or the corresponding official under a consolidated charter, forward a copy of its findings, including the confidence interval for the median and such other measures of each classification or subclassification studied ~~studies~~ and for all the roll as a whole, and related statistical and analytical details, to the requesting party.

Reviser's note.—Amended to confirm the editorial substitution of the word "studied" for the word "studies" to conform to context.

Section 14. Subsection (6) of section 196.012, Florida Statutes, is amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(6) Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the lessee under any leasehold interest created in property of the United States, the state or any of its political subdivisions, or any municipality, agency, special district, authority, or other public body corporate of the state is demonstrated to perform a function or serve a governmental purpose which could properly be performed or served by an appropriate governmental unit or which is demonstrated to perform a function or serve a purpose which would otherwise be a valid subject for the allocation of public funds. For purposes of the preceding sentence, an activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as an aviation area on an airport layout plan which has been approved by the Federal Aviation Administration and which real property is used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed base operation which provides goods and services to the general aviation public in the promotion of air commerce shall be deemed an activity which serves a governmental, municipal, or public purpose or function. Any activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as a public airport as defined in s. 332.004(14) by municipalities, agencies, special districts, authorities, or other public bodies corporate and public bodies politic of the state, a spaceport as defined in s. 331.303, or which is located in a deepwater port identified in s. 403.021(9)(b) and owned by one of the foregoing governmental units, subject to a leasehold or other possessory interest of a nongovernmental lessee that is deemed to perform an aviation, airport, aerospace, maritime, or port purpose or operation shall be deemed an activity that serves a governmental, municipal, or public purpose. The use by a lessee, licensee, or management company of real property

or a portion thereof as a convention center, visitor center, sports facility with permanent seating, concert hall, arena, stadium, park, or beach is deemed a use that serves a governmental, municipal, or public purpose or function when access to the property is open to the general public with or without a charge for admission. If property deeded to a municipality by the United States is subject to a requirement that the Federal Government, through a schedule established by the Secretary of the Interior, determine that the property is being maintained for public historic preservation, park, or recreational purposes and if those conditions are not met the property will revert back to the Federal Government, then such property shall be deemed to serve a municipal or public purpose. The term "governmental purpose" also includes a direct use of property on federal lands in connection with the Federal Government's Space Exploration Program or spaceport activities as defined in s. 212.02(22). Real property and tangible personal property owned by the Federal Government or Space Florida and used for defense and space exploration purposes or which is put to a use in support thereof shall be deemed to perform an essential national governmental purpose and shall be exempt. "Owned by the lessee" as used in this chapter does not include personal property, buildings, or other real property improvements used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed based operation which provides goods and services to the general aviation public in the promotion of air commerce provided that the real property is designated as an aviation area on an airport layout plan approved by the Federal Aviation Administration. For purposes of determination of "ownership," buildings and other real property improvements which will revert to the airport authority or other governmental unit upon expiration of the term of the lease shall be deemed "owned" by the governmental unit and not the lessee. Providing two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(15), and for which a certificate is required under chapter 364 does not constitute an exempt use for purposes of s. 196.199, unless the telecommunications services are provided by the operator of a public-use airport, as defined in s. 332.004, for the operator's provision of telecommunications services for the airport or its tenants, concessionaires, or licensees, or unless the telecommunications services are provided by a public hospital. ~~However, property that is being used to provide such telecommunications services on or before October 1, 1997, shall remain exempt, but such exemption expires October 1, 2004.~~

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

Section 15. Section 201.0205, Florida Statutes, is amended to read:

201.0205 Counties that have implemented ch. 83-220; inapplicability of 10-cent tax increase by s. 2, ch. 92-317, Laws of Florida.—The 10-cent tax increase in the documentary stamp tax levied by s. 2, chapter 92-317, does not apply to deeds and other taxable instruments relating to real property located in any county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida. Each such county and each eligible jurisdiction within such

county shall not be eligible to participate in programs funded pursuant to s. 201.15(9) ~~201.15(6)~~. However, each such county and each eligible jurisdiction within such county shall be eligible to participate in programs funded pursuant to s. 201.15(10) ~~201.15(7)~~.

Reviser's note.—Amended to conform to the redesignation of subunits within s. 201.15 by s. 2, ch. 99-247, Laws of Florida.

Section 16. Paragraph (c) of subsection (2) of section 202.24, Florida Statutes, is amended to read:

202.24 Limitations on local taxes and fees imposed on dealers of communications services.—

(2)

(c) This subsection does not apply to:

1. Local communications services taxes levied under this chapter.

2. Ad valorem taxes levied pursuant to chapter 200.

3. Business ~~Occupational license~~ taxes levied under chapter 205.

4. "911" service charges levied under chapter 365.

5. Amounts charged for the rental or other use of property owned by a public body which is not in the public rights-of-way to a dealer of communications services for any purpose, including, but not limited to, the placement or attachment of equipment used in the provision of communications services.

6. Permit fees of general applicability which are not related to placing or maintaining facilities in or on public roads or rights-of-way.

7. Permit fees related to placing or maintaining facilities in or on public roads or rights-of-way pursuant to s. 337.401.

8. Any in-kind requirements, institutional networks, or contributions for, or in support of, the use or construction of public, educational, or governmental access facilities allowed under federal law and imposed on providers of cable service pursuant to any ordinance or agreement. Nothing in this subparagraph shall prohibit the ability of providers of cable service to recover such expenses as allowed under federal law.

9. Special assessments and impact fees.

10. Pole attachment fees that are charged by a local government for attachments to utility poles owned by the local government.

11. Utility service fees or other similar user fees for utility services.

12. Any other generally applicable tax, fee, charge, or imposition authorized by general law on July 1, 2000, which is not specifically prohibited by this subsection or included as a replaced revenue source in s. 202.20.

Reviser's note.—Amended to conform to the redesignation of occupational license taxes in chapter 205 as business taxes by ch. 2006-152, Laws of Florida.

Section 17. Section 205.1975, Florida Statutes, is amended to read:

205.1975 Household moving services; consumer protection.—A county or municipality may not issue or renew a business tax receipt ~~occupational license~~ for the operation of a mover or moving broker under chapter 507 unless the mover or broker exhibits a current registration from the Department of Agriculture and Consumer Services.

Reviser's note.—Amended to confirm the editorial substitution of the term "business tax receipt" for the term "occupational license" to conform to usage throughout chapter 205 as amended by ch. 2006-152, Laws of Florida.

Section 18. Paragraph (p) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(p) Community contribution tax credit for donations.—

1. Authorization.—Persons who are registered with the department under s. 212.18 to collect or remit sales or use tax and who make donations to eligible sponsors are eligible for tax credits against their state sales and use tax liabilities as provided in this paragraph:

a. The credit shall be computed as 50 percent of the person's approved annual community contribution.

b. The credit shall be granted as a refund against state sales and use taxes reported on returns and remitted in the 12 months preceding the date of application to the department for the credit as required in sub-subparagraph 3.c. If the annual credit is not fully used through such refund because of insufficient tax payments during the applicable 12-month period, the unused amount may be included in an application for a refund made pursuant to sub-subparagraph 3.c. in subsequent years against the total tax payments made for such year. Carryover credits may be applied for a 3-year period without regard to any time limitation that would otherwise apply under s. 215.26.

c. A person may not receive more than $200,000 in annual tax credits for all approved community contributions made in any one year.

d. All proposals for the granting of the tax credit require the prior approval of the Office of Tourism, Trade, and Economic Development.

e. The total amount of tax credits which may be granted for all programs approved under this paragraph, s. 220.183, and s. 624.5105 is $10.5 million annually for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) and $3.5 million annually for all other projects.

f. A person who is eligible to receive the credit provided for in this paragraph, s. 220.183, or s. 624.5105 may receive the credit only under the one section of the person's choice.

2. Eligibility requirements.—

a. A community contribution by a person must be in the following form:

(I) Cash or other liquid assets;

(II) Real property;

(III) Goods or inventory; or

(IV) Other physical resources as identified by the Office of Tourism, Trade, and Economic Development.

b. All community contributions must be reserved exclusively for use in a project. As used in this sub-subparagraph, the term "project" means any activity undertaken by an eligible sponsor which is designed to construct, improve, or substantially rehabilitate housing that is affordable to low-income or very-low-income households as defined in s. 420.9071(19) and (28); designed to provide commercial, industrial, or public resources and facilities; or designed to improve entrepreneurial and job-development opportunities for low-income persons. A project may be the investment necessary to increase access to high-speed broadband capability in rural communities with enterprise zones, including projects that result in improvements to communications assets that are owned by a business. A project may include the provision of museum educational programs and materials that are directly related to any project approved between January 1, 1996, and December 31, 1999, and located in an enterprise zone designated pursuant to s. 290.0065. This paragraph does not preclude projects that propose to construct or rehabilitate housing for low-income or very-low-income households on scattered sites. With respect to housing, contributions may be used to pay the following eligible low-income and very-low-income housing-related activities:

(I) Project development impact and management fees for low-income or very-low-income housing projects;

(II) Down payment and closing costs for eligible persons, as defined in s. 420.9071(19) and (28);

(III) Administrative costs, including housing counseling and marketing fees, not to exceed 10 percent of the community contribution, directly related to low-income or very-low-income projects; and

(IV) Removal of liens recorded against residential property by municipal, county, or special district local governments when satisfaction of the lien is a necessary precedent to the transfer of the property to an eligible person, as defined in s. 420.9071(19) and (28), for the purpose of promoting home ownership. Contributions for lien removal must be received from a nonrelated third party.

c. The project must be undertaken by an "eligible sponsor," which includes:

(I) A community action program;

(II) A nonprofit community-based development organization whose mission is the provision of housing for low-income or very-low-income households or increasing entrepreneurial and job-development opportunities for low-income persons;

(III) A neighborhood housing services corporation;

(IV) A local housing authority created under chapter 421;

(V) A community redevelopment agency created under s. 163.356;

(VI) The Florida Industrial Development Corporation;

(VII) A historic preservation district agency or organization;

(VIII) A regional workforce board;

(IX) A direct-support organization as provided in s. 1009.983;

(X) An enterprise zone development agency created under s. 290.0056;

(XI) A community-based organization incorporated under chapter 617 which is recognized as educational, charitable, or scientific pursuant to s. 501(c)(3) of the Internal Revenue Code and whose bylaws and articles of incorporation include affordable housing, economic development, or community development as the primary mission of the corporation;

(XII) Units of local government;

(XIII) Units of state government; or

(XIV) Any other agency that the Office of Tourism, Trade, and Economic Development designates by rule.

In no event may a contributing person have a financial interest in the eligible sponsor.

d. The project must be located in an area designated an enterprise zone or a Front Porch Florida Community pursuant to s. 20.18(6), unless the project increases access to high-speed broadband capability for rural communities with enterprise zones but is physically located outside the designated rural zone boundaries. Any project designed to construct or rehabilitate housing for low-income or very-low-income households as defined in s.

420.9071(19) and (28) ~~420.0971(19) and (28)~~ is exempt from the area requirement of this sub-subparagraph.

e.(I) If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for less than the annual tax credits available for those projects, the Office of Tourism, Trade, and Economic Development shall grant tax credits for those applications and shall grant remaining tax credits on a first-come, first-served basis for any subsequent eligible applications received before the end of the state fiscal year. If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for more than the annual tax credits available for those projects, the office shall grant the tax credits for those applications as follows:

(A) If tax credit applications submitted for approved projects of an eligible sponsor do not exceed $200,000 in total, the credits shall be granted in full if the tax credit applications are approved.

(B) If tax credit applications submitted for approved projects of an eligible sponsor exceed $200,000 in total, the amount of tax credits granted pursuant to sub-sub-sub-subparagraph (A) shall be subtracted from the amount of available tax credits, and the remaining credits shall be granted to each approved tax credit application on a pro rata basis.

(II) If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects other than those that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for less than the annual tax credits available for those projects, the office shall grant tax credits for those applications and shall grant remaining tax credits on a first-come, first-served basis for any subsequent eligible applications received before the end of the state fiscal year. If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects other than those that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for more than the annual tax credits available for those projects, the office shall grant the tax credits for those applications on a pro rata basis.

3. Application requirements.—

a. Any eligible sponsor seeking to participate in this program must submit a proposal to the Office of Tourism, Trade, and Economic Development which sets forth the name of the sponsor, a description of the project, and the area in which the project is located, together with such supporting information as is prescribed by rule. The proposal must also contain a resolution from the local governmental unit in which the project is located certifying that the project is consistent with local plans and regulations.

b. Any person seeking to participate in this program must submit an application for tax credit to the office which sets forth the name of the

sponsor, a description of the project, and the type, value, and purpose of the contribution. The sponsor shall verify the terms of the application and indicate its receipt of the contribution, which verification must be in writing and accompany the application for tax credit. The person must submit a separate tax credit application to the office for each individual contribution that it makes to each individual project.

c. Any person who has received notification from the office that a tax credit has been approved must apply to the department to receive the refund. Application must be made on the form prescribed for claiming refunds of sales and use taxes and be accompanied by a copy of the notification. A person may submit only one application for refund to the department within any 12-month period.

4. Administration.—

a. The Office of Tourism, Trade, and Economic Development may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to administer this paragraph, including rules for the approval or disapproval of proposals by a person.

b. The decision of the office must be in writing, and, if approved, the notification shall state the maximum credit allowable to the person. Upon approval, the office shall transmit a copy of the decision to the Department of Revenue.

c. The office shall periodically monitor all projects in a manner consistent with available resources to ensure that resources are used in accordance with this paragraph; however, each project must be reviewed at least once every 2 years.

d. The office shall, in consultation with the Department of Community Affairs and the statewide and regional housing and financial intermediaries, market the availability of the community contribution tax credit program to community-based organizations.

5. Expiration.—This paragraph expires June 30, 2015; however, any accrued credit carryover that is unused on that date may be used until the expiration of the 3-year carryover period for such credit.

Reviser's note.—Amended to correct an erroneous reference. Section 420.0971 does not exist; s. 420.9071(19) and (28) define "low-income household" and "very-low-income household."

Section 19. Paragraph (b) of subsection (5) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(5) Nothing contained in this section shall prevent the department from:

(b) Disclosing to the Chief Financial Officer the names and addresses of those taxpayers who have claimed an exemption pursuant to <u>former</u> s. 199.185(1)(i) or a deduction pursuant to s. 220.63(5).

Reviser's note.—Amended to conform to the repeal of s. 199.185 by s. 1, ch. 2006-312, Laws of Florida.

Section 20. Paragraph (a) of subsection (4) of section 213.0535, Florida Statutes, is amended to read:

213.0535 Registration Information Sharing and Exchange Program.—

(4) There are two levels of participation:

(a) Each unit of state or local government responsible for administering one or more of the provisions specified in subparagraphs 1.-8. is a level-one participant. Level-one participants shall exchange, monthly or quarterly, as determined jointly by each participant and the department, the data enumerated in subsection (2) for each new registrant, new filer, or initial reporter, permittee, or licensee, with respect to the following taxes, licenses, or permits:

1. The sales and use tax imposed under chapter 212.

2. The tourist development tax imposed under s. 125.0104.

3. The tourist impact tax imposed under s. 125.0108.

4. Local business ~~occupational license~~ taxes imposed under chapter 205.

5. Convention development taxes imposed under s. 212.0305.

6. Public lodging and food service establishment licenses issued pursuant to chapter 509.

7. Beverage law licenses issued pursuant to chapter 561.

8. A municipal resort tax as authorized under chapter 67-930, Laws of Florida.

Reviser's note.—Amended to conform to the redesignation of local occupational license taxes as local business taxes by ch. 2006-152, Laws of Florida.

Section 21. Paragraph (a) of subsection (2) and subsection (7) of section 215.559, Florida Statutes, are reenacted, and subsection (4) of that section is amended to read:

215.559 Hurricane Loss Mitigation Program.—

(2)(a) Seven million dollars in funds provided in subsection (1) shall be used for programs to improve the wind resistance of residences and mobile homes, including loans, subsidies, grants, demonstration projects, and direct assistance; educating persons concerning the Florida Building Code cooperative programs with local governments and the Federal Government; and other efforts to prevent or reduce losses or reduce the cost of rebuilding after a disaster.

(4) Of moneys provided to the Department of Community Affairs in paragraph (2)(a), 10 percent shall be allocated to a Type I Center within the State University System dedicated to hurricane research. The Type I Center shall develop a preliminary work plan approved by the advisory council set forth in subsection (5)~~(6)~~ to eliminate the state and local barriers to upgrading existing mobile homes and communities, research and develop a program for the recycling of existing older mobile homes, and support programs of research and development relating to hurricane loss reduction devices and techniques for site-built residences. The State University System also shall consult with the Department of Community Affairs and assist the department with the report required under subsection (7)~~(8)~~.

(7) On January 1st of each year, the Department of Community Affairs shall provide a full report and accounting of activities under this section and an evaluation of such activities to the Speaker of the House of Representatives, the President of the Senate, and the Majority and Minority Leaders of the House of Representatives and the Senate. Upon completion of the report, the Department of Community Affairs shall deliver the report to the Office of Insurance Regulation. The Office of Insurance Regulation shall review the report and shall make such recommendations available to the insurance industry as the Office of Insurance Regulation deems appropriate. These recommendations may be used by insurers for potential discounts or rebates pursuant to s. 627.0629. The Office of Insurance Regulation shall make the recommendations within 1 year after receiving the report.

Reviser's note.—Paragraph (2)(a) and subsection (7) are reenacted to confirm the validity of the amendments to those provisions by s. 1, ch. 2005-147, Laws of Florida. The Governor vetoed the addition of what would have been a new subsection (5) by s. 1, ch. 2005-147. Subsection (4) is amended to conform references within the section to the current location of the referenced material as a result of the repeal of former subsection (3) by s. 46, ch. 2006-12, Laws of Florida.

Section 22. Subsection (2) of section 215.82, Florida Statutes, is amended to read:

215.82 Validation; when required.—

(2) Any bonds issued pursuant to this act which are validated shall be validated in the manner provided by chapter 75. In actions to validate bonds to be issued in the name of the State Board of Education under s. 9(a) and (d), Art. XII of the State Constitution and bonds to be issued pursuant to chapter 259, the Land Conservation Act of 1972, the complaint shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending. In any action to validate bonds issued pursuant to former ss. 1010.61-1010.619 or issued pursuant to s. 9(a)(1), Art. XII of the State Constitution or issued pursuant to s. 215.605 or s. 338.227, the complaint shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06

shall be published in a newspaper of general circulation in the county where the complaint is filed and in two other newspapers of general circulation in the state, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending; provided, however, that if publication of notice pursuant to this section would require publication in more newspapers than would publication pursuant to s. 75.06, such publication shall be made pursuant to s. 75.06.

Reviser's note.—Amended to conform to the repeal of ss. 1010.61-1010.619 by s. 15, ch. 2006-27, Laws of Florida.

Section 23. Paragraph (b) of subsection (3) of section 218.64, Florida Statutes, is amended to read:

218.64 Local government half-cent sales tax; uses; limitations.—

(3) Subject to ordinances enacted by the majority of the members of the county governing authority and by the majority of the members of the governing authorities of municipalities representing at least 50 percent of the municipal population of such county, counties may use up to $2 million annually of the local government half-cent sales tax allocated to that county for funding for any of the following applicants:

(b) A certified applicant as a "motorsport entertainment complex," as provided for in s. 288.1171 ~~288.1097~~. Funding for each franchise or motorsport complex shall begin 60 days after certification and shall continue for not more than 30 years.

Reviser's note.—Amended to correct an erroneous reference. Section 288.1097 relates to qualified training organizations; s. 288.1171 relates to a motorsport entertainment complex.

Section 24. Paragraph (a) of subsection (1) of section 220.181, Florida Statutes, is amended to read:

220.181 Enterprise zone jobs credit.—

(1)(a) There shall be allowed a credit against the tax imposed by this chapter to any business located in an enterprise zone which demonstrates to the department that, on the date of application, the total number of full-time jobs is greater than the total was 12 months prior to that date. The credit shall be computed as 20 percent of the actual monthly wages paid in this state to each new employee hired when a new job has been created, as defined under s. 220.03(1)(ee) ~~220.03(1)(ff)~~, unless the business is located in a rural enterprise zone, pursuant to s. 290.004(6), in which case the credit shall be 30 percent of the actual monthly wages paid. If no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the credit shall be computed as 30 percent of the actual monthly wages paid in this state to each new employee hired when a new job has been created, unless the business is located in a rural enterprise zone, in which case the credit shall be 45 percent of the actual monthly wages paid, for a period of up to 24 consecutive months. If the new employee hired when a new job is created is a participant

in the welfare transition program, the following credit shall be a percent of the actual monthly wages paid: 40 percent for $4 above the hourly federal minimum wage rate; 41 percent for $5 above the hourly federal minimum wage rate; 42 percent for $6 above the hourly federal minimum wage rate; 43 percent for $7 above the hourly federal minimum wage rate; and 44 percent for $8 above the hourly federal minimum wage rate.

Reviser's note.—Amended to conform to the repeal of former s. 220.03(1)(x) by s. 4, ch. 2006-2, Laws of Florida, and the redesignation of subunits as a result of that repeal; current s. 220.03(1)(ee) defines "new job has been created."

Section 25. Paragraph (c) of subsection (1) of section 220.183, Florida Statutes, is amended to read:

220.183 Community contribution tax credit.—

(1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM SPENDING.—

(c) The total amount of tax credit which may be granted for all programs approved under this section, s. 212.08(5)(p) ~~212.08(5)(q)~~, and s. 624.5105 is $10.5 million annually for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) and $3.5 million annually for all other projects.

Reviser's note.—Amended to conform to the redesignation of s. 212.08(5)(q) as s. 212.08(5)(p) to conform to the repeal of former s. 212.08(5)(p) by s. 2, ch. 2006-2, Laws of Florida.

Section 26. Subsection (20) of section 250.01, Florida Statutes, is amended to read:

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

(20) "SCRA ~~SSCRA~~" means the Servicemembers' ~~Soldiers' and Sailors'~~ Civil Relief Act, Title 50, Appendix U.S.C. ss. 501 et seq.

Reviser's note.—Amended to conform to the redesignation of the federal act in Title 50 United States Code.

Section 27. Subsection (1) of section 250.82, Florida Statutes, is amended to read:

250.82 Applicability of federal law.—

(1) Florida law provides certain protections to members of the United States Armed Forces, the United States Reserve Forces, and the Florida National Guard in various legal proceedings and contractual relationships. In addition to these state provisions, federal law also contains protections, such as those provided in the Servicemembers' ~~Soldiers' and Sailors'~~ Civil Relief Act (SCRA ~~SSCRA~~), Title 50, Appendix U.S.C. ss. 501 et seq., and the Uniformed Services Employment and Reemployment Rights Act (USERRA),

Title 38 United States Code, chapter 43, that are applicable to members in every state even though such provisions are not specifically identified under state law.

Reviser's note.—Amended to conform to the redesignation of the federal act in Title 50 United States Code.

Section 28. Paragraph (b) of subsection (3) of section 250.84, Florida Statutes, is amended to read:

250.84 Florida Uniformed Servicemembers Protection Act; rights of servicemembers; incorporation by reference.—

(3) Such documents containing the rights and responsibilities of servicemembers set forth in this act shall include an enumeration of all rights and responsibilities under state and federal law, including, but not limited to:

(b) The rights and responsibilities provided by the Servicemembers' ~~Soldiers' and Sailors'~~ Civil Relief Act.

Reviser's note.—Amended to conform to the redesignation of the federal act in Title 50 United States Code.

Section 29. Paragraph (s) of subsection (2) of section 252.35, Florida Statutes, is amended 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:

(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.

Reviser's note.—Amended to confirm the editorial deletion of the word "the" following the word "each" to improve clarity.

Section 30. Section 253.421, Florida Statutes, is repealed.

Reviser's note.—The cited section, which provides for the exchange of donated state lands between the Board of Trustees of the Internal Improvement Trust Fund and a local government no later than August 31, 2003, has served its purpose.

Section 31. Section 253.422, Florida Statutes, is repealed.

Reviser's note.—The cited section, which provides for an exchange of lands contemplated between the Board of Trustees of the Internal Improvement Trust Fund and a private entity for formerly submerged sovereignty lands, known as the "Chapman Exchange," no later than July 1, 2003, has served its purpose.

Section 32. Paragraph (c) of subsection (2) of section 255.25001, Florida Statutes, is amended to read:

255.25001 Suspension or delay of specified functions, programs, and requirements relating to governmental operations.—Notwithstanding the provisions of:

(2) Sections 253.025 and 255.25, the Department of Management Services has the authority to promulgate rules pursuant to chapter 120 to be used in determining whether a lease-purchase of a state-owned office building is in the best interests of the state, which rules provide:

(c) Acceptable terms and conditions for inclusion in lease-purchase agreements, which shall include but not be limited to:

1. The assignment of the lease-purchase agreement to other governmental entities, including accumulated equity.

2. The ability of the acquiring state agency to sublease a portion of the facility, not to exceed 25 percent, to other governmental entities. These subleases shall provide for the recovery of the agencies' cost of operations and maintenance.

The execution of a lease-purchase is conditioned upon a finding by the Department of Management Services that it would be in the best interests of the state. The language in this subsection shall be considered specific authorization for a lease-purchase pursuant to s. 255.25(1)(c) ~~255.25(1)(b)~~ upon the Department of Management Services' certification that the lease-purchase is in the best interests of the state. Thereafter, the agency is authorized to enter into a lease-purchase agreement and to expend operating funds for lease-purchase payments. Any facility which is acquired pursuant to the processes authorized by this subsection shall be considered to be a "state-owned office building" and a "state-owned building" as those terms are applied in ss. 255.248-255.25.

Reviser's note.—Amended to conform to the redesignation of s. 255.25(1)(b) as s. 255.25(1)(c) by s. 3, ch. 94-333, Laws of Florida.

Section 33. Paragraph (b) of subsection (7) of section 259.1053, Florida Statutes, is amended to read:

259.1053 Babcock Ranch Preserve; Babcock Ranch, Inc.; creation; membership; organization; meetings.—

(7) BOARD; MEMBERSHIP; REMOVAL; LIABILITY.—The corporation shall be governed by a nine-member board of directors who shall be ap-

pointed by the Board of Trustees of the Internal Improvement Trust Fund; the executive director of the commission; the Commissioner of Agriculture; the Babcock Florida Company, a corporation registered to do business in the state, or its successors or assigns; the Charlotte County Board of County Commissioners; and the Lee County Board of County Commissioners in the following manner:

(b) All members of the board of directors shall be appointed no later than 90 days following the initial acquisition of the Babcock Ranch by the state, and:

1. Four members initially appointed by the Board of Trustees of the Internal Improvement Trust Fund shall each serve a 4-year term.

2. The remaining initial five appointees shall each serve a 2-year term.

3. Each member appointed thereafter shall serve a 4-year term.

4. A vacancy shall be filled in the same manner in which the original appointment was made, and a member appointed to fill a vacancy shall serve for the remainder of that term.

5. No member may serve more than 8 years in consecutive terms.

Reviser's note.—Amended to confirm the editorial insertion of the word "than" after the word "later" to improve clarity and facilitate correct interpretation.

Section 34. Paragraph (d) of subsection (1) of section 260.016, Florida Statutes, is amended to read:

260.016 General powers of the department.—

(1) The department may:

(d) Establish, develop, and publicize greenways and trails in a manner that will permit public recreation when appropriate without damaging natural resources and avoiding unnecessary impact upon sensitive environments such as wetlands or animal habitats, wherever encountered. The Big Bend Historic Saltwater Paddling Trail from the St. Marks River to Yankeetown is hereby designated as part of the Florida Greenways and Trails System. Additions to this trail may be added by the Legislature or the department from time to time as part of the Florida Circumnavigation Saltwater Paddling Trail created in s. 260.019 ~~260.19~~.

Reviser's note.—Amended to correct a reference to s. 260.19, which does not exist; s. 260.019 creates the Florida Circumnavigation Saltwater Paddling Trail.

Section 35. Subsection (4) of section 287.0574, Florida Statutes, is amended to read:

287.0574 Business cases to outsource; review and analysis; requirements.—

(4) For any proposed outsourcing, the state agency shall develop a business case that justifies the proposal to outsource. In order to reduce any administrative burden, the council may allow a state agency to submit the business case in the form required by the budget instructions issued pursuant to s. 216.023(4)(a)7. ~~216.023(4)(a)11.~~, augmented with additional information if necessary, to ensure that the requirements of this section are met. The business case is not subject to challenge or protest pursuant to chapter 120. The business case must include, but need not be limited to:

(a) A detailed description of the service or activity for which the outsourcing is proposed.

(b) A description and analysis of the state agency's current performance, based on existing performance metrics if the state agency is currently performing the service or activity.

(c) The goals desired to be achieved through the proposed outsourcing and the rationale for such goals.

(d) A citation to the existing or proposed legal authority for outsourcing the service or activity.

(e) A description of available options for achieving the goals. If state employees are currently performing the service or activity, at least one option involving maintaining state provision of the service or activity shall be included.

(f) An analysis of the advantages and disadvantages of each option, including, at a minimum, potential performance improvements and risks.

(g) A description of the current market for the contractual services that are under consideration for outsourcing.

(h) A cost-benefit analysis documenting the direct and indirect specific baseline costs, savings, and qualitative and quantitative benefits involved in or resulting from the implementation of the recommended option or options. Such analysis must specify the schedule that, at a minimum, must be adhered to in order to achieve the estimated savings. All elements of cost must be clearly identified in the cost-benefit analysis, described in the business case, and supported by applicable records and reports. The state agency head shall attest that, based on the data and information underlying the business case, to the best of his or her knowledge, all projected costs, savings, and benefits are valid and achievable. As used in this section, the term "cost" means the reasonable, relevant, and verifiable cost, which may include, but is not limited to, elements such as personnel, materials and supplies, services, equipment, capital depreciation, rent, maintenance and repairs, utilities, insurance, personnel travel, overhead, and interim and final payments. The appropriate elements shall depend on the nature of the specific initiative. As used in this section, the term "savings" means the difference between the direct and indirect actual annual baseline costs compared to the projected annual cost for the contracted functions or responsibilities in any succeeding state fiscal year during the term of the contract.

(i) A description of differences among current state agency policies and processes and, as appropriate, a discussion of options for or a plan to standardize, consolidate, or revise current policies and processes, if any, to reduce the customization of any proposed solution that would otherwise be required.

(j) A description of the specific performance standards that must, at a minimum, be met to ensure adequate performance.

(k) The projected timeframe for key events from the beginning of the procurement process through the expiration of a contract.

(l) A plan to ensure compliance with the public records law.

(m) A specific and feasible contingency plan addressing contractor nonperformance and a description of the tasks involved in and costs required for its implementation.

(n) A state agency's transition plan for addressing changes in the number of agency personnel, affected business processes, employee transition issues, and communication with affected stakeholders, such as agency clients and the public. The transition plan must contain a reemployment and retraining assistance plan for employees who are not retained by the state agency or employed by the contractor.

(o) A plan for ensuring access by persons with disabilities in compliance with applicable state and federal law.

(p) A description of legislative and budgetary actions necessary to accomplish the proposed outsourcing.

Reviser's note.—Amended to conform to the redesignation of s. 216.023(4)(a)11. as s. 216.023(4)(a)7. by s. 26, ch. 2006-122, Laws of Florida, and by s. 17, ch. 2006-146, Laws of Florida.

Section 36. Paragraph (b) of subsection (2) of section 288.039, Florida Statutes, is amended to read:

288.039 Employing and Training our Youths (ENTRY).—

(2) TAX REFUND; ELIGIBLE AMOUNTS.—

(b) After entering into an employment/tax refund agreement under subsection (3), an eligible business may receive refunds for the following taxes or fees due and paid by that business:

1. Taxes on sales, use, and other transactions under chapter 212.

2. Corporate income taxes under chapter 220.

3. Intangible personal property taxes under chapter 199.

4. Emergency excise taxes under chapter 221.

5. Excise taxes on documents under chapter 201.

6. Ad valorem taxes paid, as defined in s. 220.03(1).

7. Insurance premium taxes under s. 624.509.

8. Business tax ~~Occupational license~~ fees under chapter 205.

However, an eligible business may not receive a refund under this section for any amount of credit, refund, or exemption granted to that business for any of such taxes or fees. If a refund for such taxes or fees is provided by the office, which taxes or fees are subsequently adjusted by the application of any credit, refund, or exemption granted to the eligible business other than as provided in this section, the business shall reimburse the office for the amount of that credit, refund, or exemption. An eligible business shall notify and tender payment to the office within 20 days after receiving any credit, refund, or exemption other than the one provided in this section.

Reviser's note.—Amended to conform to the redesignation of occupational license taxes in chapter 205 as business taxes by ch. 2006-152, Laws of Florida.

Section 37. Paragraph (l) of subsection (1) of section 288.1045, Florida Statutes, is amended to read:

288.1045 Qualified defense contractor tax refund program.—

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

(l) "Taxable year" means the same as in s. 220.03(1)(y) ~~220.03(1)(z)~~.

Reviser's note.—Amended to conform to the redesignation of s. 220.03(1)(z) as s. 220.03(1)(y) necessitated by the repeal of paragraph (1)(x) by s. 4, ch. 2006-2, Laws of Florida.

Section 38. Paragraph (p) of subsection (1) of section 288.106, Florida Statutes, is amended to read:

288.106 Tax refund program for qualified target industry businesses.—

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

(p) "Taxable year" means taxable year as defined in s. 220.03(1)(y) ~~220.03(1)(z)~~.

Reviser's note.—Amended to conform to the redesignation of s. 220.03(1)(z) as s. 220.03(1)(y) necessitated by the repeal of paragraph (1)(x) by s. 4, ch. 2006-2, Laws of Florida.

Section 39. Sections 288.1231, 288.1232, 288.1233, 288.1235, 288.1236, and 288.1237, Florida Statutes, are repealed.

Reviser's note.—The cited sections, which relate to the selection of a host city for the XXXth Olympic Games in 2012, have served their purpose.

Section 40. Subsection (6) of section 288.90151, Florida Statutes, is amended to read:

288.90151 Return on investment from activities of Enterprise Florida, Inc.—

(6) Enterprise Florida, Inc., shall fully comply with the performance measures, standards, and sanctions in its contracts with the Office of Tourism, Trade, and Economic Development under s. 14.2015(2)(g) and (7) ~~14.2015(2)(h) and (7)~~. The Office of Tourism, Trade, and Economic Development shall ensure, to the maximum extent possible, that the contract performance measures are consistent with performance measures that the office is required to develop and track under performance-based program budgeting.

Reviser's note.—Amended to conform to the redesignation of s. 14.2015(2)(h) as s. 14.2015(2)(g) by s. 1, ch. 99-251, Laws of Florida.

Section 41. Paragraph (e) of subsection (1) of section 290.0057, Florida Statutes, is amended to read:

290.0057 Enterprise zone development plan.—

(1) Any application for designation as a new enterprise zone must be accompanied by a strategic plan adopted by the governing body of the municipality or county, or the governing bodies of the county and one or more municipalities together. At a minimum, the plan must:

(e) Commit the governing body or bodies to enact and maintain local fiscal and regulatory incentives, if approval for the area is received under s. 290.0065. These incentives may include the municipal public service tax exemption provided by s. 166.231, the economic development ad valorem tax exemption provided by s. 196.1995, the business ~~occupational license~~ tax exemption provided by s. 205.054, local impact fee abatement or reduction, or low-interest or interest-free loans or grants to businesses to encourage the revitalization of the nominated area.

Reviser's note.—Amended to conform to the redesignation of occupational license taxes in chapter 205 as business taxes by ch. 2006-152, Laws of Florida.

Section 42. Section 290.0072, Florida Statutes, is amended to read:

290.0072 Enterprise zone designation for the City of Winter Haven.—The City of Winter Haven may apply to the Office of Tourism, Trade, and Economic Development for designation of one enterprise zone for an area within the City of Winter Haven, which zone shall encompass an ~~on~~ area up to 5 square miles. Notwithstanding s. 290.0065 limiting the total number of enterprise zones designated and the number of enterprise zones within a population category, the Office of Tourism, Trade, and Economic Development may designate one enterprise zone under this section. The Office of Tourism, Trade, and Economic Development shall establish the initial effective date of the enterprise zone designated pursuant to this section.

Reviser's note.—Amended to confirm the editorial substitution of the word "an" for the word "on" to conform to context.

Section 43. Subsections (2) and (3) of section 316.006, Florida Statutes, are reenacted to read:

316.006 Jurisdiction.—Jurisdiction to control traffic is vested as follows:

(2) MUNICIPALITIES.—

(a) Chartered municipalities shall have original jurisdiction over all streets and highways located within their boundaries, except state roads, and may place and maintain such traffic control devices which conform to the manual and specifications of the Department of Transportation upon all streets and highways under their original jurisdiction as they shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic.

(b) A municipality may exercise jurisdiction over any private road or roads, or over any limited access road or roads owned or controlled by a special district, located within its boundaries if the municipality and party or parties owning or controlling such road or roads provide, by written agreement approved by the governing body of the municipality, for municipal traffic control jurisdiction over the road or roads encompassed by such agreement. Pursuant thereto:

1. Provision for reimbursement for actual costs of traffic control and enforcement and for liability insurance and indemnification by the party or parties, and such other terms as are mutually agreeable, may be included in such an agreement.

2. The exercise of jurisdiction provided for herein shall be in addition to jurisdictional authority presently exercised by municipalities under law, and nothing in this paragraph shall be construed to limit or remove any such jurisdictional authority. Such jurisdiction includes regulation of access to such road or roads by security devices or personnel.

3. Any such agreement may provide for the installation of multiparty stop signs by the parties controlling the roads covered by the agreement if a determination is made by such parties that the signage will enhance traffic safety. Multiparty stop signs must conform to the manual and specifications of the Department of Transportation; however, minimum traffic volumes may not be required for the installation of such signage. Enforcement for the signs shall be as provided in s. 316.123.

4. The board of directors of a homeowners' association as defined in chapter 720 may, by majority vote, elect to have state traffic laws enforced by local law enforcement agencies on private roads that are controlled by the association.

(c) Notwithstanding any other provisions of law to the contrary, a municipality may, by interlocal agreement with a county, agree to transfer traffic regulatory authority over areas within the municipality to the county.

This subsection shall not limit those counties which have the charter powers to provide and regulate arterial, toll, and other roads, bridges, tunnels, and related facilities from the proper exercise of those powers by the placement and maintenance of traffic control devices which conform to the manual and specifications of the Department of Transportation on streets and highways located within municipal boundaries.

(3) COUNTIES.—

(a) Counties shall have original jurisdiction over all streets and highways located within their boundaries, except all state roads and those streets and highways specified in subsection (2), and may place and maintain such traffic control devices which conform to the manual and specifications of the Department of Transportation upon all streets and highways under their original jurisdiction as they shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic.

(b) A county may exercise jurisdiction over any private road or roads, or over any limited access road or roads owned or controlled by a special district, located in the unincorporated area within its boundaries if the county and party or parties owning or controlling such road or roads provide, by written agreement approved by the governing body of the county, for county traffic control jurisdiction over the road or roads encompassed by such agreement. Pursuant thereto:

1. Provision for reimbursement for actual costs of traffic control and enforcement and for liability insurance and indemnification by the party or parties, and such other terms as are mutually agreeable, may be included in such an agreement.

2. Prior to entering into an agreement which provides for enforcement of the traffic laws of the state over a private road or roads, or over any limited access road or roads owned or controlled by a special district, the governing body of the county shall consult with the sheriff. No such agreement shall take effect prior to October 1, the beginning of the county fiscal year, unless this requirement is waived in writing by the sheriff.

3. The exercise of jurisdiction provided for herein shall be in addition to jurisdictional authority presently exercised by counties under law, and nothing in this paragraph shall be construed to limit or remove any such jurisdictional authority.

4. Any such agreement may provide for the installation of multiparty stop signs by the parties controlling the roads covered by the agreement if a determination is made by such parties that the signage will enhance traffic safety. Multiparty stop signs must conform to the manual and specifications of the Department of Transportation; however, minimum traffic volumes may not be required for the installation of such signage. Enforcement for the signs shall be as provided in s. 316.123.

5. The board of directors of a homeowners' association as defined in chapter 720 may, by majority vote, elect to have state traffic laws enforced

by local law enforcement agencies on private roads that are controlled by the association.

(c) If the governing body of a county abandons the roads and rights-of-way dedicated in a recorded residential subdivision, and simultaneously conveys the county's interest therein to a homeowners' association for the subdivision in the manner prescribed in s. 336.125, that county's traffic control jurisdiction over the abandoned and conveyed roads ceases unless the requirements of paragraph (b) are met.

Notwithstanding the provisions of subsection (2), each county shall have original jurisdiction to regulate parking, by resolution of the board of county commissioners and the erection of signs conforming to the manual and specifications of the Department of Transportation, in parking areas located on property owned or leased by the county, whether or not such areas are located within the boundaries of chartered municipalities.

Reviser's note.—Section 6, ch. 2006-290, Laws of Florida, amended paragraphs (2)(b) and (3)(b) without publishing the flush left language at the end of the respective subsections. Absent affirmative evidence of legislative intent to repeal it, the flush left language is reenacted to confirm that the omissions were not intended.

Section 44. Paragraph (b) of subsection (9) of section 320.77, Florida Statutes, is amended to read:

320.77 License required of mobile home dealers.—

(9) SALESPERSONS TO BE REGISTERED BY LICENSEES.—

(b) Each time a mobile home salesperson employed by a licensee changes his <u>or her</u> residence address, the salesperson must notify the department within 20 days after the change.

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

Section 45. Subsection (2) of section 322.2615, Florida Statutes, is amended to read:

322.2615 Suspension of license; right to review.—

(2) Except as provided in paragraph (1)(a), the law enforcement officer shall forward to the department, within 5 days after issuing the notice of suspension, the driver's license; an affidavit stating the officer's grounds for belief that the person was driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages or chemical or controlled substances; the results of any breath or blood test or an affidavit stating that a breath, blood, or urine test was requested by a law enforcement officer or correctional officer and that the person refused to submit; the officer's description of the person's field sobriety test, if any; the notice of

suspension; and a copy of the crash report, if any. The failure of the officer to submit materials within the 5-day period specified in this subsection and in subsection (1) does not affect the department's ability to consider any evidence submitted at or prior to the hearing. The officer may also submit a copy of a videotape of the field sobriety test or the attempt to administer such test. Materials submitted to the department by a law enforcement agency or correctional agency shall be considered self-authenticating and shall be in the record for consideration by the hearing officer. Notwithstanding s. 316.066(7) ~~316.066(4)~~, the crash report shall be considered by the hearing officer.

Reviser's note.—Amended to conform to the redesignation of s. 316.066(4) as s. 316.066(7) by s. 1, ch. 2006-260, Laws of Florida.

Section 46. Subsection (1) of section 328.64, Florida Statutes, is amended to read:

328.64 Change of interest and address.—

(1) The owner shall furnish the Department of Highway Safety and Motor Vehicles notice of the transfer of all or any part of his or her interest in a vessel registered or titled in this state pursuant to this chapter ~~or chapter 328~~ or of the destruction or abandonment of such vessel, within 30 days thereof, on a form prescribed by the department. Such transfer, destruction, or abandonment shall terminate the certificate for such vessel, except that in the case of a transfer of a part interest which does not affect the owner's right to operate such vessel, such transfer shall not terminate the certificate. The department shall provide the form for such notice and shall attach the form to every vessel title issued or reissued.

Reviser's note.—Amended to confirm the editorial deletion of the words "or chapter 328" following the words "this chapter" to conform to the renumbering of s. 327.19 as s. 328.64 by s. 19, ch. 99-289, Laws of Florida, and to eliminate redundancy.

Section 47. Section 331.312, Florida Statutes, is amended to read:

331.312 Furnishing facilities and services within the spaceport territory.—Space Florida may construct, develop, create, maintain, and operate its projects within the geographical limits of the spaceport territory, including any portions of the spaceport territory located inside the boundaries of any incorporated municipality or other political subdivision, and ~~to~~ offer, supply, and furnish the facilities and services provided for in this act to, and ~~to~~ establish and collect fees, rentals, and other charges from, persons, public or private, within the geographical limits of the spaceport territory and for the use of Space Florida itself.

Reviser's note.—Amended to confirm the editorial deletion of the word "to" following the word "and" to improve clarity and correct sentence construction.

Section 48. Section 331.313, Florida Statutes, is amended to read:

331.313 Power of Space Florida with respect to roads.—Within the territorial limits of any spaceport territory, Space Florida may acquire, through purchase or interagency agreement, or as otherwise provided in law, and ~~to~~ construct, control, and maintain, roads deemed necessary by Space Florida and connections thereto and extensions thereof now or hereafter acquired, constructed, or maintained in accordance with established highway safety standards; provided that, in the event a road being addressed by Space Florida is owned by another agency or jurisdiction, Space Florida, before proceeding with the proposed project or work activity, shall have either coordinated the desired work with the owning agency or jurisdiction or shall have successfully executed an interagency agreement with the owning agency or jurisdiction.

Reviser's note.—Amended to confirm the editorial deletion of the word "to" preceding the word "construct" to improve clarity and correct sentence construction.

Section 49. Subsection (1) of section 331.316, Florida Statutes, is amended to read:

331.316 Rates, fees, rentals, tolls, fares, and charges; procedure for adoption and modification; minimum revenue requirements.—

(1) To recover the costs of the spaceport facility or system, Space Florida may prescribe, fix, establish, and collect rates, fees, rentals, tolls, fares, or other charges (hereinafter referred to as "revenues"), and ~~to~~ revise the same from time to time, for the facilities and services furnished or to be furnished by Space Florida and the spaceport, including, but not limited to, launch pads, ranges, payload assembly and processing facilities, visitor and tourist facilities, transportation facilities, and parking and other related facilities, and may provide for reasonable penalties against any user or property for any such rates, fees, rentals, tolls, fares, or other charges that are delinquent.

Reviser's note.—Amended to confirm the editorial deletion of the word "to" preceding the word "revise" to improve clarity and correct sentence construction.

Section 50. Subsection (2) of section 331.319, Florida Statutes, is amended to read:

331.319 Comprehensive planning; building and safety codes.—The board of directors may:

(2) Prohibit within the spaceport territory the construction, alteration, repair, removal, or demolition, or the commencement of the construction, alteration, repair (except emergency repairs), removal, or demolition, of any building or structure, including, but not by way of limitation, public utility poles, lines, pipes, and facilities, without first obtaining a permit from the board or such other officer or agency as the board may designate, and ~~to~~ prescribe the procedure with respect to the obtaining of such permit.

Reviser's note.—Amended to confirm the editorial deletion of the word "to" preceding the word "prescribe" to improve clarity and correct sentence construction.

Section 51. Section 331.324, Florida Statutes, is amended to read:

331.324 Contracts, grants, and contributions.—Space Florida may make and enter all contracts and agreements necessary or incidental to the performance of the functions of Space Florida and the execution of its powers, and ~~to~~ contract with, and ~~to~~ accept and receive grants or loans of money, material, or property from, any person, private or public, as the board shall determine to be necessary or desirable to carry out the purposes of this act, and, in connection with any such contract, grant, or loan, ~~to~~ stipulate and agree to such covenants, terms, and conditions as the board shall deem appropriate.

Reviser's note.—Amended to confirm the editorial deletion of the word "to" following the words "and" and "loan" to improve clarity and correct sentence construction.

Section 52. Subsection (4) of section 336.68, Florida Statutes, is amended to read:

336.68 Special road and bridge district boundaries; property owner rights and options.—

(4) The property owner shall provide copies of the recorded certificate to the governing body of the district from which the property is being withdrawn within ~~days~~ 10 days after the date that the certificate is recorded. If the district does not record an objection to the withdrawal of the property in the public records within 30 days after the recording of the certificate identifying the criteria in this section that has not been met, the withdrawal shall be final and the property shall be permanently withdrawn from the boundaries of the district.

Reviser's note.—Amended to confirm the editorial deletion of the word "days" following the word "within" to correct a typographical error.

Section 53. Subsection (6) of section 341.840, Florida Statutes, is amended to read:

341.840 Tax exemption.—

(6) A leasehold interest held by the authority is not subject to intangible tax. However, if a leasehold interest held by the authority is subleased to a nongovernmental lessee, such subleasehold interest shall be deemed to be an interest described in s. 199.023(1)(d), Florida Statutes 2005, and is subject to the intangible tax.

Reviser's note.—Amended to conform to the repeal of s. 199.023 by s. 1, ch. 2006-312, Laws of Florida.

Section 54. Paragraph (c) of subsection (1) and subsection (2) of section 366.93, Florida Statutes, are amended to read:

366.93 Cost recovery for the siting, design, licensing, and construction of nuclear power plants.—

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

(c) "Nuclear power plant" or "plant" is an electrical power plant as defined in s. 403.503(13) ~~403.503(12)~~ that uses nuclear materials for fuel.

(2) Within 6 months after the enactment of this act, the commission shall establish, by rule, alternative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of a nuclear power plant. Such mechanisms shall be designed to promote utility investment in nuclear power plants and allow for the recovery in rates of all prudently incurred costs, and shall include, but are not limited to:

(a) Recovery through the capacity cost recovery clause of any preconstruction costs.

(b) Recovery through an incremental increase in the utility's capacity cost recovery clause rates of the carrying costs on the utility's projected construction cost balance associated with the nuclear power plant. To encourage investment and provide certainty, for nuclear power plant need petitions submitted on or before December 31, 2010, associated carrying costs shall be equal to the pretax AFUDC in effect upon this act becoming law. For nuclear power plants for which need petitions are submitted after December 31, 2010, the utility's existing pretax AFUDC rate is presumed to be appropriate unless determined otherwise by the commission in the determination of need for the nuclear power plant.

Reviser's note.—Paragraph (1)(c) is amended to conform to the redesignation of s. 403.503(12) as s. 403.503(13) by s. 20, ch. 2006-230, Laws of Florida. Subsection (2) is amended to confirm the editorial insertion of the word "of" following the word "rates" to improve clarity and correct sentence construction.

Section 55. Subsection (4) of section 370.063, Florida Statutes, is amended to read:

370.063 Special recreational spiny lobster license.—There is created a special recreational spiny lobster license, to be issued to qualified persons as provided by this section for the recreational harvest of spiny lobster beginning August 5, 1994.

(4) As a condition precedent to the issuance of a special recreational spiny lobster license, the applicant must agree to file quarterly reports with the Fish and Wildlife Conservation Commission in such form as the commission requires, detailing the amount of the licenseholder's spiny lobster harvest in the previous quarter, including the harvest of other recreational harvesters aboard the licenseholder's vessel.

Reviser's note.—Amended to conform to the editorial insertion of the word "license" following the word "lobster" to improve clarity and correct sentence construction.

Section 56. Subsection (4) of section 375.065, Florida Statutes, is amended to read:

375.065 Public beaches; financial and other assistance by Department of Environmental Protection to local governments.—

(4) In addition to the authorized assistance procedures provided by this section, the Legislature urges the Department of Environmental Protection to give priority to applications relating to the acquisition of public beaches in urban areas, and to make full use of the federal Land and Water Conservation Fund Act of 1965, as amended, or other applicable federal programs. This section is supplemental to and shall not limit or repeal any provision of the Outdoor Recreation and Conservation Act of 1963.

Reviser's note.—Amended to conform to the name of the Outdoor Recreation and Conservation Act of 1963 as referenced in s. 375.011.

Section 57. Subsections (3) and (5) of section 376.30, Florida Statutes, are amended to read:

376.30 Legislative intent with respect to pollution of surface and ground waters.—

(3) The Legislature intends by the enactment of ss. 376.30-376.317 ~~376.30-376.319~~ to exercise the police power of the state by conferring upon the Department of Environmental Protection the power to:

(a) Deal with the environmental and health hazards and threats of danger and damage posed by such storage, transportation, disposal, and related activities;

(b) Require the prompt containment and removal of products occasioned thereby; and

(c) Establish a program which will enable the department to:

1. Provide for expeditious restoration or replacement of potable water systems or potable private wells of affected persons where health hazards exist due to contamination from pollutants (which may include provision of bottled water on a temporary basis, after which a more stable and convenient source of potable water shall be provided) and hazardous substances, subject to the following conditions:

a. For the purposes of this subparagraph, the term "restoration" means restoration of a contaminated potable water supply to a level which meets applicable water quality standards or applicable water quality criteria, as adopted by rule, for the contaminant or contaminants present in the water supply, or, where no such standards or criteria have been adopted, to a level that is determined to be a safe, potable level by the State Health Officer in the Department of Health, through the installation of a filtration system and provision of replacement filters as necessary or through employment of repairs or another treatment method or methods designed to remove or filter out contamination from the water supply; and the term "replacement"

means replacement of a well or well field or connection to an alternative source of safe, potable water.

b. For the purposes of the Inland Protection Trust Fund and the dry-cleaning facility restoration funds in the Water Quality Assurance Trust Fund as provided in s. 376.3078, such restoration or replacement shall take precedence over other uses of the unobligated moneys within the fund after payment of amounts appropriated annually from the Inland Protection Trust Fund for payments under any service contract entered into by the department pursuant to s. 376.3075.

c. Funding for activities described in this subparagraph shall not exceed $10 million for any one county for any one year, other than for the provision of bottled water.

d. Funding for activities described in this subparagraph shall not be available to fund any increase in the capacity of a potable water system or potable private well over the capacity which existed prior to such restoration or replacement, unless such increase is the result of the use of a more cost-effective alternative than other alternatives available.

2. Provide for the inspection and supervision of activities described in this subsection.

3. Guarantee the prompt payment of reasonable costs resulting therefrom, including those administrative costs incurred by the Department of Health in providing field and laboratory services, toxicological risk assessment, and other services to the department in the investigation of drinking water contamination complaints.

(5) The Legislature further declares that it is the intent of ss. 376.30-376.317 ~~376.30-376.319~~ to support and complement applicable provisions of the Federal Water Pollution Control Act, as amended, specifically those provisions relating to the national contingency plan for removal of pollutants.

Reviser's note.—Amended to conform to the repeal of s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

Section 58. Section 376.301, Florida Statutes, is amended to read:

376.301 Definitions of terms used in ss. 376.30-376.317 ~~376.30-376.319~~, 376.70, and 376.75.—When used in ss. 376.30-376.317 ~~376.30-376.319~~, 376.70, and 376.75, unless the context clearly requires otherwise, the term:

(1) "Aboveground hazardous substance tank" means any stationary aboveground storage tank and onsite integral piping that contains hazardous substances which are liquid at standard temperature and pressure and has an individual storage capacity greater than 110 gallons.

(2) "Additive effects" means a scientific principle that the toxicity that occurs as a result of exposure is the sum of the toxicities of the individual chemicals to which the individual is exposed.

(3) "Antagonistic effects" means a scientific principle that the toxicity that occurs as a result of exposure is less than the sum of the toxicities of the individual chemicals to which the individual is exposed.

(4) "Backlog" means reimbursement obligations incurred pursuant to s. 376.3071(12), prior to March 29, 1995, or authorized for reimbursement under the provisions of s. 376.3071(12), pursuant to chapter 95-2, Laws of Florida. Claims within the backlog are subject to adjustment, where appropriate.

(5) "Barrel" means 42 U.S. gallons at 60 degrees Fahrenheit.

(6) "Bulk product facility" means a waterfront location with at least one aboveground tank with a capacity greater than 30,000 gallons which is used for the storage of pollutants.

(7) "Cattle-dipping vat" means any structure, excavation, or other facility constructed by any person, or the site where such structure, excavation, or other facility once existed, for the purpose of treating cattle or other livestock with a chemical solution pursuant to or in compliance with any local, state, or federal governmental program for the prevention, suppression, control, or eradication of any dangerous, contagious, or infectious diseases.

(8) "Cleanup target level" means the concentration for each contaminant identified by an applicable analytical test method, in the medium of concern, at which a site rehabilitation program is deemed complete.

(9) "Compression vessel" means any stationary container, tank, or onsite integral piping system, or combination thereof, which has a capacity of greater than 110 gallons, that is primarily used to store pollutants or hazardous substances above atmospheric pressure or at a reduced temperature in order to lower the vapor pressure of the contents. Manifold compression vessels that function as a single vessel shall be considered as one vessel.

(10) "Contaminant" means any physical, chemical, biological, or radiological substance present in any medium which may result in adverse effects to human health or the environment or which creates an adverse nuisance, organoleptic, or aesthetic condition in groundwater.

(11) "Contaminated site" means any contiguous land, sediment, surface water, or groundwater areas that contain contaminants that may be harmful to human health or the environment.

(12) "Department" means the Department of Environmental Protection.

(13) "Discharge" includes, but is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying, releasing, or dumping of any pollutant or hazardous substance which occurs and which affects lands and the surface and ground waters of the state not regulated by ss. 376.011-376.21.

(14) "Drycleaning facility" means a commercial establishment that operates or has at some time in the past operated for the primary purpose of

drycleaning clothing and other fabrics utilizing a process that involves any use of drycleaning solvents. The term "drycleaning facility" includes laundry facilities that use drycleaning solvents as part of their cleaning process. The term does not include a facility that operates or has at some time in the past operated as a uniform rental company or a linen supply company regardless of whether the facility operates as or was previously operated as a drycleaning facility.

(15) "Drycleaning solvents" means any and all nonaqueous solvents used in the cleaning of clothing and other fabrics and includes perchloroethylene (also known as tetrachloroethylene) and petroleum-based solvents, and their breakdown products. For purposes of this definition, "drycleaning solvents" only includes those drycleaning solvents originating from use at a drycleaning facility or by a wholesale supply facility.

(16) "Dry drop-off facility" means any commercial retail store that receives from customers clothing and other fabrics for drycleaning or laundering at an offsite drycleaning facility and that does not clean the clothing or fabrics at the store utilizing drycleaning solvents.

(17) "Engineering controls" means modifications to a site to reduce or eliminate the potential for exposure to petroleum products' chemicals of concern, drycleaning solvents, or other contaminants. Such modifications may include, but are not limited to, physical or hydraulic control measures, capping, point of use treatments, or slurry walls.

(18) "Wholesale supply facility" means a commercial establishment that supplies drycleaning solvents to drycleaning facilities.

(19) "Facility" means a nonresidential location containing, or which contained, any underground stationary tank or tanks which contain hazardous substances or pollutants and have individual storage capacities greater than 110 gallons, or any aboveground stationary tank or tanks which contain pollutants which are liquids at standard ambient temperature and pressure and have individual storage capacities greater than 550 gallons. This subsection shall not apply to facilities covered by chapter 377, or containers storing solid or gaseous pollutants, and agricultural tanks having storage capacities of less than 550 gallons.

(20) "Flow-through process tank" means an aboveground tank that contains hazardous substances or specified mineral acids as defined in s. 376.321 and that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks include, but are not limited to, seal tanks, vapor recovery units, surge tanks, blend tanks, feed tanks, check and delay tanks, batch tanks, oil-water separators, or tanks in which mechanical, physical, or chemical change of a material is accomplished.

(21) "Hazardous substances" means those substances defined as hazardous substances in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767, as amended by the Superfund Amendments and Reauthorization Act of 1986.

(22) "Institutional controls" means the restriction on use or access to a site to eliminate or minimize exposure to petroleum products' chemicals of concern, drycleaning solvents, or other contaminants. Such restrictions may include, but are not limited to, deed restrictions, restrictive covenants, or conservation easements.

(23) "Laundering on a wash, dry, and fold basis" means the service provided by the owner or operator of a coin-operated laundry to its customers whereby an employee of the laundry washes, dries, and folds laundry for its customers.

(24) "Marine fueling facility" means a commercial or recreational coastal facility, excluding a bulk product facility, providing fuel to vessels.

(25) "Natural attenuation" means a verifiable approach to site rehabilitation that allows natural processes to contain the spread of contamination and reduce the concentrations of contaminants in contaminated groundwater and soil. Natural attenuation processes may include the following: sorption, biodegradation, chemical reactions with subsurface materials, diffusion, dispersion, and volatilization.

(26) "Operator" means any person operating a facility, whether by lease, contract, or other form of agreement.

(27) "Owner" means any person owning a facility.

(28) "Person" means any individual, partner, joint venture, or corporation; any group of the foregoing, organized or united for a business purpose; or any governmental entity.

(29) "Person in charge" means the person on the scene who is in direct, responsible charge of a facility from which pollutants are discharged, when the discharge occurs.

(30) "Person responsible for conducting site rehabilitation" means the site owner, operator, or the person designated by the site owner or operator on the reimbursement application. Mortgage holders and trust holders may be eligible to participate in the reimbursement program pursuant to s. 376.3071(12).

(31) "Person responsible for site rehabilitation" means the person performing site rehabilitation pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701. Such person may include, but is not limited to, any person who has legal responsibility for site rehabilitation pursuant to this chapter or chapter 403, the department when it conducts site rehabilitation, a real property owner, a facility owner or operator, any person responsible for brownfield site rehabilitation, or any person who voluntarily rehabilitates a site and seeks acknowledgment from the department for approval of site rehabilitation program tasks.

(32) "Petroleum" includes:

(a) Oil, including crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary methods

and which are not the result of condensation of gas after it leaves the reservoir; and

(b) All natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in paragraph (a).

(33) "Petroleum product" means any liquid fuel commodity made from petroleum, including, but not limited to, all forms of fuel known or sold as diesel fuel, kerosene, all forms of fuel known or sold as gasoline, and fuels containing a mixture of gasoline and other products, excluding liquefied petroleum gas and American Society for Testing and Materials (ASTM) grades no. 5 and no. 6 residual oils, bunker C residual oils, intermediate fuel oils (IFO) used for marine bunkering with a viscosity of 30 and higher, asphalt oils, and petrochemical feedstocks.

(34) "Petroleum products' chemicals of concern" means the constituents of petroleum products, including, but not limited to, xylene, benzene, toluene, ethylbenzene, naphthalene, and similar chemicals, and constituents in petroleum products, including, but not limited to, methyl tert-butyl ether (MTBE), lead, and similar chemicals found in additives, provided the chemicals of concern are present as a result of a discharge of petroleum products.

(35) "Petroleum storage system" means a stationary tank not covered under the provisions of chapter 377, together with any onsite integral piping or dispensing system associated therewith, which is used, or intended to be used, for the storage or supply of any petroleum product. Petroleum storage systems may also include oil/water separators, and other pollution control devices installed at petroleum product terminals as defined in this chapter and bulk product facilities pursuant to, or required by, permits or best management practices in an effort to control surface discharge of pollutants. Nothing herein shall be construed to allow a continuing discharge in violation of department rules.

(36) "Pollutants" includes any "product" as defined in s. 377.19(11), pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

(37) "Pollution" means the presence on the land or in the waters of the state of pollutants in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

(38) "Real property owner" means the individual or entity that is vested with ownership, dominion, or legal or rightful title to the real property, or which has a ground lease interest in the real property, on which a drycleaning facility or wholesale supply facility is or has ever been located.

(39) "Response action" means any activity, including evaluation, planning, design, engineering, construction, and ancillary services, which is carried out in response to any discharge, release, or threatened release of a hazardous substance, pollutant, or other contaminant from a facility or site

identified by the department under the provisions of ss. 376.30-376.317 ~~376.30-376.319~~.

(40) "Response action contractor" means a person who is carrying out any response action, including a person retained or hired by such person to provide services relating to a response action.

(41) "Risk reduction" means the lowering or elimination of the level of risk posed to human health or the environment through interim remedial actions, remedial action, or institutional and, if appropriate, engineering controls.

(42) "Secretary" means the Secretary of Environmental Protection.

(43) "Site rehabilitation" means the assessment of site contamination and the remediation activities that reduce the levels of contaminants at a site through accepted treatment methods to meet the cleanup target levels established for that site. For purposes of sites subject to the Resource Conservation and Recovery Act, as amended, the term includes removal, decontamination, and corrective action of releases of hazardous substances.

(44) "Source removal" means the removal of free product, or the removal of contaminants from soil or sediment that has been contaminated to the extent that leaching to groundwater or surface water has occurred or is occurring.

(45) "Storage system" means a stationary tank not covered under the provisions of chapter 377, together with any onsite integral piping or dispensing system associated therewith, which is or has been used for the storage or supply of any petroleum product, pollutant, or hazardous substance as defined herein, and which is registered with the Department of Environmental Protection under this chapter or any rule adopted pursuant hereto.

(46) "Synergistic effects" means a scientific principle that the toxicity that occurs as a result of exposure is more than the sum of the toxicities of the individual chemicals to which the individual is exposed.

(47) "Temporary point of compliance" means the boundary represented by one or more designated monitoring wells at which groundwater cleanup target levels may not be exceeded while site rehabilitation is proceeding.

(48) "Terminal facility" means any structure, group of structures, motor vehicle, rolling stock, pipeline, equipment, or related appurtenances which are used or capable of being used for one or more of the following purposes: pumping, refining, drilling for, producing, storing, handling, transferring, or processing pollutants, provided such pollutants are transferred over, under, or across any water, estuaries, tidal flats, beaches, or waterfront lands, including, but not limited to, any such facility and related appurtenances owned or operated by a public utility or a governmental or quasi-governmental body. In the event of a ship-to-ship transfer of pollutants, the vessel going to or coming from the place of transfer and a terminal facility shall also be considered a terminal facility. For the purposes of ss. 376.30-376.317 ~~376.30-376.319~~, the term "terminal facility" shall not be construed

to include spill response vessels engaged in response activities related to removal of pollutants, or temporary storage facilities created to temporarily store recovered pollutants and matter, or waterfront facilities owned and operated by governmental entities acting as agents of public convenience for persons engaged in the drilling for or pumping, storing, handling, transferring, processing, or refining of pollutants. However, each person engaged in the drilling for or pumping, storing, handling, transferring, processing, or refining of pollutants through a waterfront facility owned and operated by such a governmental entity shall be construed as a terminal facility.

(49) "Transfer" or "transferred" includes onloading, offloading, fueling, bunkering, lightering, removal of waste pollutants, or other similar transfers, between terminal facility and vessel or vessel and vessel.

(50) "Nearby real property owner" means the individual or entity that is vested with ownership, dominion, or legal or rightful title to real property, or that has a ground lease in real property, onto which drycleaning solvent has migrated through soil or groundwater from a drycleaning facility or wholesale supply facility eligible for site rehabilitation under s. 376.3078(3) or from a drycleaning facility or wholesale supply facility that is approved by the department for voluntary cleanup under s. 376.3078(11).

Reviser's note.—Amended to conform to the repeal of s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

Section 59. Paragraphs (a), (f), and (j) of subsection (1) and subsection (2) of section 376.303, Florida Statutes, are amended to read:

376.303 Powers and duties of the Department of Environmental Protection.—

(1) The department has the power and the duty to:

(a) Establish rules, including, but not limited to, construction standards, permitting or registration of tanks, maintenance and installation standards, and removal or disposal standards, to implement the intent of ss. 376.30-376.317 ~~376.30-376.319~~ and to regulate underground and aboveground facilities and their onsite integral piping systems. Such rules may establish standards for underground facilities which store hazardous substances or pollutants, and marine fueling facilities and aboveground facilities, not covered by chapter 377, which store pollutants. The department shall register bulk product facilities and shall issue annual renewals of such registrations. Requirements for facilities with underground storage tanks having storage capacities over 110 gallons that store hazardous substances became effective on January 1, 1991. The department shall maintain a compliance verification program for this section, which may include investigations or inspections to locate improperly abandoned tanks. The department may contract with other governmental agencies or private consultants to perform compliance verification activities. The contracts may provide for an advance of working capital to local governments to expedite the implementation of the compliance verification program. Counties with permit or registration fees for storage tanks or storage tank systems are not eligible for advance funding for the compliance verification program.

(f) Establish a requirement that any facility or terminal facility covered by this act be subject to complete and thorough inspections at reasonable times. Any facility or terminal facility which has discharged a pollutant in violation of the provisions of ss. 376.30-376.317 ~~376.30-376.319~~ shall be fully and carefully monitored by the department to ensure that such discharge does not continue to occur.

(j) Bring an action on behalf of the state to enforce the liabilities imposed by ss. 376.30-376.317 ~~376.30-376.319~~. The provisions of ss. 403.121, 403.131, 403.141, and 403.161 apply to enforcement under ss. 376.30-376.317 ~~376.30-376.319~~.

(2) The powers and duties of the department under ss. 376.30-376.317 ~~376.30-376.319~~ shall extend to the boundaries of the state described in s. 1, Art. II of the State Constitution.

Reviser's note.—Amended to conform to the repeal of s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

Section 60. Subsections (1) and (5) of section 376.305, Florida Statutes, are amended to read:

376.305 Removal of prohibited discharges.—

(1) Any person discharging a pollutant as prohibited by ss. 376.30-376.317 ~~376.30-376.319~~ shall immediately undertake to contain, remove, and abate the discharge to the satisfaction of the department. However, such an undertaking to contain, remove, or abate a discharge shall not be deemed an admission of responsibility for the discharge by the person taking such action. Notwithstanding this requirement, the department may undertake the removal of the discharge and may contract and retain agents who shall operate under the direction of the department.

(5) Nothing in ss. 376.30-376.317 ~~376.30-376.319~~ shall affect the right of any person to render assistance in containing or removing any pollutant or any rights which that person may have against any third party whose acts or omissions in any way have caused or contributed to the discharge of the pollutant.

Reviser's note.—Amended to conform to the repeal of s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

Section 61. Paragraph (a) of subsection (1) and paragraph (c) of subsection (4) of section 376.307, Florida Statutes, are amended to read:

376.307 Water Quality Assurance Trust Fund.—

(1) The Water Quality Assurance Trust Fund is intended to serve as a broad-based fund for use in responding to incidents of contamination that pose a serious danger to the quality of groundwater and surface water resources or otherwise pose a serious danger to the public health, safety, or welfare. Moneys in this fund may be used:

(a) To carry out the provisions of ss. 376.30-376.317 ~~376.30-376.319~~, relating to assessment, cleanup, restoration, monitoring, and maintenance of any site involving spills, discharges, or escapes of pollutants or hazardous substances which occur as a result of procedures taken by private and governmental entities involving the storage, transportation, and disposal of such products.

(4) The trust fund shall be funded as follows:

(c) All penalties, judgments, recoveries, reimbursements, and other fees and charges related to the enforcement of ss. 376.30-376.317 ~~376.30-376.319~~, other than penalties, judgments, and other fees and charges related to the enforcement of ss. 376.3071 and 376.3073.

Reviser's note.—Amended to conform to the repeal of s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

Section 62. Paragraph (e) of subsection (1) and subsection (4) of section 376.3071, Florida Statutes, are amended to read:

376.3071 Inland Protection Trust Fund; creation; purposes; funding.—

(1) FINDINGS.—In addition to the legislative findings set forth in s. 376.30, the Legislature finds and declares:

(e) That it is necessary to fulfill the intent and purposes of ss. 376.30-376.317 ~~376.30-376.319~~, and further it is hereby determined to be in the best interest of, and necessary for the protection of the public health, safety, and general welfare of the residents of this state, and therefore a paramount public purpose, to provide for the creation of a nonprofit public benefit corporation as an instrumentality of the state to assist in financing the functions provided in ss. 376.30-376.317 ~~376.30-376.319~~ and to authorize the department to enter into one or more service contracts with such corporation for the provision of financing services related to such functions and to make payments thereunder from the amount on deposit in the Inland Protection Trust Fund, subject to annual appropriation by the Legislature.

(4) USES.—Whenever, in its determination, incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the environment or the public health, safety, or welfare, the department shall obligate moneys available in the fund to provide for:

(a) Prompt investigation and assessment of contamination sites.

(b) Expeditious restoration or replacement of potable water supplies as provided in s. 376.30(3)(c)1.

(c) Rehabilitation of contamination sites, which shall consist of cleanup of affected soil, groundwater, and inland surface waters, using the most cost-effective alternative that is technologically feasible and reliable and that provides adequate protection of the public health, safety, and welfare and minimizes environmental damage, in accordance with the site selection and cleanup criteria established by the department under subsection (5), except

that nothing herein shall be construed to authorize the department to obligate funds for payment of costs which may be associated with, but are not integral to, site rehabilitation, such as the cost for retrofitting or replacing petroleum storage systems.

(d) Maintenance and monitoring of contamination sites.

(e) Inspection and supervision of activities described in this subsection.

(f) Payment of expenses incurred by the department in its efforts to obtain from responsible parties the payment or recovery of reasonable costs resulting from the activities described in this subsection.

(g) Payment of any other reasonable costs of administration, including those administrative costs incurred by the Department of Health in providing field and laboratory services, toxicological risk assessment, and other assistance to the department in the investigation of drinking water contamination complaints and costs associated with public information and education activities.

(h) Establishment and implementation of the compliance verification program as authorized in s. 376.303(1)(a), including contracting with local governments or state agencies to provide for the administration of such program through locally administered programs, to minimize the potential for further contamination sites.

(i) Funding of the provisions of ss. 376.305(6) and 376.3072.

(j) Activities related to removal and replacement of petroleum storage systems, exclusive of costs of any tank, piping, dispensing unit, or related hardware, if soil removal is preapproved as a component of site rehabilitation and requires removal of the tank where remediation is conducted under s. 376.30711 or if such activities were justified in an approved remedial action plan performed pursuant to subsection (12).

(k) Activities related to reimbursement application preparation and activities related to reimbursement application examination by a certified public accountant pursuant to subsection (12).

(l) Reasonable costs of restoring property as nearly as practicable to the conditions which existed prior to activities associated with contamination assessment or remedial action taken under s. 376.303(4).

(m) Repayment of loans to the fund.

(n) Expenditure of sums from the fund to cover ineligible sites or costs as set forth in subsection (13), if the department in its discretion deems it necessary to do so. In such cases, the department may seek recovery and reimbursement of costs in the same manner and in accordance with the same procedures as are established for recovery and reimbursement of sums otherwise owed to or expended from the fund.

(o) Payment of amounts payable under any service contract entered into by the department pursuant to s. 376.3075, subject to annual appropriation by the Legislature.

(p) Petroleum remediation pursuant to s. 376.30711 throughout a state fiscal year. The department shall establish a process to uniformly encumber appropriated funds throughout a state fiscal year and shall allow for emergencies and imminent threats to human health and the environment as provided in paragraph (5)(a). This paragraph does not apply to appropriations associated with the free product recovery initiative of paragraph (5)(c) or the preapproved advanced cleanup program of s. 376.30713.

The Inland Protection Trust Fund may only be used to fund the activities in ss. 376.30-376.317 ~~376.30-376.319~~ except ss. 376.3078 and 376.3079. Amounts on deposit in the Inland Protection Trust Fund in each fiscal year shall first be applied or allocated for the payment of amounts payable by the department pursuant to paragraph (o) under a service contract entered into by the department pursuant to s. 376.3075 and appropriated in each year by the Legislature prior to making or providing for other disbursements from the fund. Nothing in this subsection shall authorize the use of the Inland Protection Trust Fund for cleanup of contamination caused primarily by a discharge of solvents as defined in s. 206.9925(6), or polychlorinated biphenyls when their presence causes them to be hazardous wastes, except solvent contamination which is the result of chemical or physical breakdown of petroleum products and is otherwise eligible. Facilities used primarily for the storage of motor or diesel fuels as defined in ss. 206.01 and 206.86 shall be presumed not to be excluded from eligibility pursuant to this section.

Reviser's note.—Amended to conform to the repeal of s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

Section 63. Subsections (1) and (4) of section 376.3075, Florida Statutes, are amended to read:

376.3075 Inland Protection Financing Corporation.—

(1) There is hereby created a nonprofit public benefit corporation to be known as the "Inland Protection Financing Corporation" for the purpose of financing the rehabilitation of petroleum contamination sites pursuant to ss. 376.30-376.317 ~~376.30-376.319~~ and the payment, purchase, and settlement of reimbursement obligations of the department pursuant to s. 376.3071(12), existing as of December 31, 1996. Such reimbursement obligations are referred to in this section as existing reimbursement obligations. The corporation shall terminate on July 1, 2025.

(4) The corporation is authorized to enter into one or more service contracts with the department pursuant to which the corporation shall provide services to the department in connection with financing the functions and activities provided for in ss. 376.30-376.317 ~~376.30-376.319~~. The department may enter into one or more such service contracts with the corporation and to provide for payments under such contracts pursuant to s. 376.3071(4)(o), subject to annual appropriation by the Legislature. The proceeds from such service contracts may be used for the costs and expenses of administration of the corporation after payments as set forth in subsection (5). Each service contract shall have a term not to exceed 10 years and shall terminate no later than July 1, 2025. The aggregate amount payable from

the Inland Protection Trust Fund under all such service contracts shall not exceed $65 million in any state fiscal year. Amounts annually appropriated and applied to make payments under such service contracts shall not include any funds derived from penalties or other payments received from any property owner or private party, including payments received from s. 376.3071(6)(b). In compliance with provisions of s. 287.0641 and other applicable provisions of law, the obligations of the department under such service contracts shall not constitute a general obligation of the state or a pledge of the faith and credit or taxing power of the state nor shall such obligations be construed in any manner as an obligation of the State Board of Administration or entities for which it invests funds, other than the department as provided in this section, but shall be payable solely from amounts available in the Inland Protection Trust Fund, subject to annual appropriation. In compliance with this subsection and s. 287.0582, the service contract shall expressly include the following statement: "The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature."

Reviser's note.—Amended to conform to the repeal of s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

Section 64. Subsections (2) and (4) of section 376.30781, Florida Statutes, are amended to read:

376.30781 Partial tax credits for rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas; application process; rulemaking authority; revocation authority.—

(2) Notwithstanding the requirements of paragraph (5)(a), tax credits allowed pursuant to s. ~~ss. 199.1055 and~~ 220.1845 are available for any site rehabilitation conducted during the calendar year in which the applicable voluntary cleanup agreement or brownfield site rehabilitation agreement is executed, even if the site rehabilitation is conducted prior to the execution of that agreement or the designation of the brownfield area.

(4) The Department of Environmental Protection shall be responsible for allocating the tax credits provided for in s. 220.1845, not to exceed a total of $2 ~~$5~~ million in tax credits annually.

Reviser's note.—Subsection (2) is amended to conform to the repeal of s. 199.1055 by s. 1, ch. 2006-312, Laws of Florida. Subsection (4) is amended to correct an apparent error and facilitate correct interpretation. The original bill and first engrossed version of House Bill 7131 contained five changes of the $2 million tax credit amount to $5 million in ss. 199.1055, 220.1845, and 376.30781. The second engrossed version and final act, which became ch. 2006-291, Laws of Florida, reverted the amount back to $2 million in all but this location.

Section 65. Paragraph (a) of subsection (3) of section 376.3079, Florida Statutes, is amended to read:

376.3079 Third-party liability insurance.—

(3) For purposes of this section and s. 376.3078, the term:

(a) "Third-party liability" means the insured's liability, other than for site rehabilitation costs and property damage as applied to sites utilizing the provisions of s. 376.3078(3) and (11) ~~378.3078(3) and (11)~~, for bodily injury caused by an incident of contamination related to the operation of a drycleaning facility or wholesale supply facility.

Reviser's note.—Amended to correct an apparent error. Section 378.3078 does not exist; s. 376.3078(3) and (11) relate to rehabilitation liability and voluntary cleanup regarding drycleaning facility restoration, respectively.

Section 66. Subsection (1) of section 376.308, Florida Statutes, is amended to read:

376.308 Liabilities and defenses of facilities.—

(1) In any suit instituted by the department under ss. 376.30-376.317 ~~376.30-376.319~~, it is not necessary to plead or prove negligence in any form or matter. The department need only plead and prove that the prohibited discharge or other polluting condition has occurred. The following persons shall be liable to the department for any discharges or polluting condition:

(a) Any person who caused a discharge or other polluting condition or who owned or operated the facility, or the stationary tanks or the nonresidential location which constituted the facility, at the time the discharge occurred.

(b) In the case of a discharge of hazardous substances, all persons specified in s. 403.727(4).

(c) In the case of a discharge of petroleum, petroleum products, or drycleaning solvents, the owner of the facility, the drycleaning facility, or the wholesale supply facility, unless the owner can establish that he or she acquired title to property contaminated by the activities of a previous owner or operator or other third party, that he or she did not cause or contribute to the discharge, and that he or she did not know of the polluting condition at the time the owner acquired title. If the owner acquired title subsequent to July 1, 1992, or, in the case of a drycleaning facility or wholesale supply facility, subsequent to July 1, 1994, he or she must also establish by a preponderance of the evidence that he or she undertook, at the time of acquisition, all appropriate inquiry into the previous ownership and use of the property consistent with good commercial or customary practice in an effort to minimize liability. The court or hearing officer shall take into account any specialized knowledge or experience on the part of the defendant, the relationship of the purchase price to the value of the property if uncontaminated, commonly known or reasonably ascertainable information about the property, the obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate inspection. In an action relating to a discharge of petroleum, petroleum products, or drycleaning solvents under chapter 403, the defenses and definitions set forth herein shall apply.

Reviser's note.—Amended to conform to the repeal of s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

Section 67. Section 376.309, Florida Statutes, is amended to read:

376.309 Facilities, financial responsibility.—

(1) Each owner of a facility is required to establish and maintain evidence of financial responsibility. Such evidence of financial responsibility shall be the only evidence required by the department that such owner has the ability to meet the liabilities which may be incurred under ss. 376.30-376.317 ~~376.30-376.319~~.

(2) Any claim brought pursuant to ss. 376.30-376.317 ~~376.30-376.319~~ may be brought directly against the bond, the insurer, or any other person providing a facility with evidence of financial responsibility.

(3) Each owner of a facility subject to the provisions of ss. 376.30-376.317 ~~376.30-376.319~~ shall designate a person in the state as his or her legal agent for service of process under ss. 376.30-376.317 ~~376.30-376.319~~, and such designation shall be filed with the Department of State. In the absence of such designation, the Secretary of State shall be the designated agent for purposes of service of process under ss. 376.30-376.317 ~~376.30-376.319~~.

Reviser's note.—Amended to conform to the repeal of s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

Section 68. Section 376.313, Florida Statutes, is amended to read:

376.313 Nonexclusiveness of remedies and individual cause of action for damages under ss. 376.30-376.317 ~~376.30-376.319~~.—

(1) The remedies in ss. 376.30-376.317 ~~376.30-376.319~~ shall be deemed to be cumulative and not exclusive.

(2) Nothing in ss. 376.30-376.317 ~~376.30-376.319~~ requires the pursuit of any claim against the Water Quality Assurance Trust Fund or the Inland Protection Trust Fund as a condition precedent to any other remedy.

(3) Except as provided in s. 376.3078(3) and (11), nothing contained in ss. 376.30-376.317 ~~376.30-376.319~~ prohibits any person from bringing a cause of action in a court of competent jurisdiction for all damages resulting from a discharge or other condition of pollution covered by ss. 376.30-376.317 ~~376.30-376.319~~. Nothing in this chapter shall prohibit or diminish a party's right to contribution from other parties jointly or severally liable for a prohibited discharge of pollutants or hazardous substances or other pollution conditions. Except as otherwise provided in subsection (4) or subsection (5), in any such suit, it is not necessary for such person to plead or prove negligence in any form or manner. Such person need only plead and prove the fact of the prohibited discharge or other pollutive condition and that it has occurred. The only defenses to such cause of action shall be those specified in s. 376.308.

(4) In any civil action brought after July 1, 1986, against the owner or operator of a petroleum storage system for damages arising from a petroleum storage system discharge, the provisions of subsection (3) shall not apply if it can be proven that, at the time of the discharge:

(a) The alleged damages resulted solely from a discharge from a petroleum storage system which was installed, replaced, or retrofitted, and maintained, in a manner consistent with the construction, operation, repair, and maintenance standards established for such systems under chapter 62-761, Florida Administrative Code, as that chapter may hereafter be amended. The requirement of consistency with such standards may be satisfied only by being in compliance with the standards at the time of the discharge, regardless of the time specified for compliance under the schedule provided in said chapter.

(b) A leak detection system or systems or a monitoring well or wells were installed and operating in a manner consistent with technical requirements of chapter 62-761, Florida Administrative Code, as that chapter may hereafter be amended; and

(c) All inventory, recordkeeping, and reporting requirements of chapter 62-761, Florida Administrative Code, as that chapter may hereafter be amended, have been and are being complied with.

Any person bringing such an action must prove negligence to recover damages under this subsection. For the purposes of this subsection, noncompliance with this act, or any of the rules promulgated pursuant hereto, as the same may hereafter be amended, shall be prima facie evidence of negligence.

(5)(a) In any civil action against the owner or operator of a drycleaning facility or a wholesale supply facility, or the owner of the real property on which such facility is located, if such facility is not eligible under s. 376.3078(3) and is not involved in voluntary cleanup under s. 376.3078(11), for damages arising from the discharge of drycleaning solvents from a drycleaning facility or wholesale supply facility, the provisions of subsection (3) shall not apply if it can be proven that, at the time of the discharge the alleged damages resulted solely from a discharge from a drycleaning facility or wholesale supply facility that was in compliance with department rules regulating drycleaning facilities or wholesale supply facilities.

(b) Any person bringing such an action must prove negligence in order to recover damages under this subsection. For the purposes of this subsection, noncompliance with s. 376.303 or s. 376.3078, or any of the rules promulgated pursuant thereto, or any applicable state or federal law or regulation, as the same may hereafter be amended, shall be prima facie evidence of negligence.

(6) The court, in issuing any final judgment in any such action, may award costs of litigation (including reasonable attorney's and expert witness fees) to any party, whenever the court determines such an award is in the public interest.

Reviser's note.—Amended to conform to the repeal of s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

Section 69. Section 376.315, Florida Statutes, is amended to read:

376.315 Construction of ss. 376.30-376.317 ~~376.30-376.319~~.—Sections 376.30-376.317 ~~376.30-376.319~~, being necessary for the general welfare and the public health and safety of the state and its inhabitants, shall be liberally construed to effect the purposes set forth under ss. 376.30-376.317 ~~376.30-376.319~~ and the Federal Water Pollution Control Act, as amended.

Reviser's note.—Amended to conform to the repeal of s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

Section 70. Subsection (1) of section 376.317, Florida Statutes, is amended to read:

376.317 Superseded laws; state preemption.—

(1) If any provision of ss. 376.30-376.317 ~~376.30-376.319~~ or of the rules developed pursuant to such sections, which provision pertains to a facility maintained for the purpose of the underground storage of petroleum products for use as fuel in vehicles, including, but not limited to, those vehicles used on and off roads, aircraft, watercraft, and rail, is in conflict with any other provision, limitation, or restriction which is now in effect under any law of this state or any ordinance of a local government, political subdivision, or municipality, or any rule or regulation adopted thereunder, the provision of ss. 376.30-376.317 ~~376.30-376.319~~ shall control, except as provided in subsection (3).

Reviser's note.—Amended to conform to the repeal of s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

Section 71. Paragraph (d) of subsection (1) of section 376.82, Florida Statutes, is amended to read:

376.82 Eligibility criteria and liability protection.—

(1) ELIGIBILITY.—Any person who has not caused or contributed to the contamination of a brownfield site on or after July 1, 1997, is eligible to participate in the brownfield program established in ss. 376.77-376.85, subject to the following:

(d) After July 1, 1997, petroleum and drycleaning contamination sites shall not receive both restoration funding assistance available for the discharge under this chapter and any state assistance available under s. 288.107. Nothing in this act shall affect the cleanup criteria, priority ranking, and other rights and obligations inherent in petroleum contamination and drycleaning contamination site rehabilitation under ss. 376.30-376.317 ~~376.30-376.319~~, or the availability of economic incentives otherwise provided for by law.

Reviser's note.—Amended to conform to the repeal of s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

Section 72. Paragraph (d) of subsection (1) of section 376.84, Florida Statutes, is amended to read:

376.84 Brownfield redevelopment economic incentives.—It is the intent of the Legislature that brownfield redevelopment activities be viewed as opportunities to significantly improve the utilization, general condition, and appearance of these sites. Different standards than those in place for new development, as allowed under current state and local laws, should be used to the fullest extent to encourage the redevelopment of a brownfield. State and local governments are encouraged to offer redevelopment incentives for this purpose, as an ongoing public investment in infrastructure and services, to help eliminate the public health and environmental hazards, and to promote the creation of jobs in these areas. Such incentives may include financial, regulatory, and technical assistance to persons and businesses involved in the redevelopment of the brownfield pursuant to this act.

(1) Financial incentives and local incentives for redevelopment may include, but not be limited to:

(d) Waiver, reduction, or limitation by line of business with respect to business ~~occupational license~~ taxes pursuant to chapter 205.

Reviser's note.—Amended to conform to the redesignation of occupational license taxes in chapter 205 as business taxes by ch. 2006-152, Laws of Florida.

Section 73. Subsection (24) of section 380.06, Florida Statutes, is amended to read:

380.06 Developments of regional impact.—

(24) STATUTORY EXEMPTIONS.—

(a) Any proposed hospital is exempt from the provisions of this section.

(b) Any proposed electrical transmission line or electrical power plant is exempt from the provisions of this section.

(c) Any proposed addition to an existing sports facility complex is exempt from the provisions of this section if the addition meets the following characteristics:

1. It would not operate concurrently with the scheduled hours of operation of the existing facility.

2. Its seating capacity would be no more than 75 percent of the capacity of the existing facility.

3. The sports facility complex property is owned by a public body prior to July 1, 1983.

This exemption does not apply to any pari-mutuel facility.

(d) Any proposed addition or cumulative additions subsequent to July 1, 1988, to an existing sports facility complex owned by a state university is exempt if the increased seating capacity of the complex is no more than 30 percent of the capacity of the existing facility.

(e) Any addition of permanent seats or parking spaces for an existing sports facility located on property owned by a public body prior to July 1, 1973, is exempt from the provisions of this section if future additions do not expand existing permanent seating or parking capacity more than 15 percent annually in excess of the prior year's capacity.

(f) Any increase in the seating capacity of an existing sports facility having a permanent seating capacity of at least 50,000 spectators is exempt from the provisions of this section, provided that such an increase does not increase permanent seating capacity by more than 5 percent per year and not to exceed a total of 10 percent in any 5-year period, and provided that the sports facility notifies the appropriate local government within which the facility is located of the increase at least 6 months prior to the initial use of the increased seating, in order to permit the appropriate local government to develop a traffic management plan for the traffic generated by the increase. Any traffic management plan shall be consistent with the local comprehensive plan, the regional policy plan, and the state comprehensive plan.

(g) Any expansion in the permanent seating capacity or additional improved parking facilities of an existing sports facility is exempt from the provisions of this section, if the following conditions exist:

1.a. The sports facility had a permanent seating capacity on January 1, 1991, of at least 41,000 spectator seats;

b. The sum of such expansions in permanent seating capacity does not exceed a total of 10 percent in any 5-year period and does not exceed a cumulative total of 20 percent for any such expansions; or

c. The increase in additional improved parking facilities is a one-time addition and does not exceed 3,500 parking spaces serving the sports facility; and

2. The local government having jurisdiction of the sports facility includes in the development order or development permit approving such expansion under this paragraph a finding of fact that the proposed expansion is consistent with the transportation, water, sewer and stormwater drainage provisions of the approved local comprehensive plan and local land development regulations relating to those provisions.

Any owner or developer who intends to rely on this statutory exemption shall provide to the department a copy of the local government application for a development permit. Within 45 days of receipt of the application, the department shall render to the local government an advisory and nonbinding opinion, in writing, stating whether, in the department's opinion, the prescribed conditions exist for an exemption under this paragraph. The local government shall render the development order approving each such expansion to the department. The owner, developer, or department may appeal

the local government development order pursuant to s. 380.07, within 45 days after the order is rendered. The scope of review shall be limited to the determination of whether the conditions prescribed in this paragraph exist. If any sports facility expansion undergoes development of regional impact review, all previous expansions which were exempt under this paragraph shall be included in the development of regional impact review.

(h) Expansion to port harbors, spoil disposal sites, navigation channels, turning basins, harbor berths, and other related inwater harbor facilities of ports listed in s. 403.021(9)(b), port transportation facilities and projects listed in s. 311.07(3)(b), and intermodal transportation facilities identified pursuant to s. 311.09(3) are exempt from the provisions of this section when such expansions, projects, or facilities are consistent with comprehensive master plans that are in compliance with the provisions of s. 163.3178.

(i) Any proposed facility for the storage of any petroleum product or any expansion of an existing facility is exempt from the provisions of this section.

(j) Any renovation or redevelopment within the same land parcel which does not change land use or increase density or intensity of use.

(k) Waterport and marina development, including dry storage facilities, are exempt from the provisions of this section.

(l) Any proposed development within an urban service boundary established under s. 163.3177(14) is exempt from the provisions of this section if the local government having jurisdiction over the area where the development is proposed has adopted the urban service boundary, has entered into a binding agreement with jurisdictions that would be impacted and with the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

(m) Any proposed development within a rural land stewardship area created under s. 163.3177(11)(d) is exempt from the provisions of this section if the local government that has adopted the rural land stewardship area has entered into a binding agreement with jurisdictions that would be impacted and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

(n) Any proposed development or redevelopment within an area designated as an urban infill and redevelopment area under s. 163.2517 is exempt from this section if the local government has entered into a binding agreement with jurisdictions that would be impacted and the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate share methodology pursuant to s. 163.3180(16).

(o) The establishment, relocation, or expansion of any military installation as defined in s. 163.3175, is exempt from this section.

(p) Any self-storage warehousing that does not allow retail or other services is exempt from this section.

(q) Any proposed nursing home or assisted living facility is exempt from this section.

(r) Any development identified in an airport master plan and adopted into the comprehensive plan pursuant to s. 163.3177(6)(k) is exempt from this section.

(s) Any development identified in a campus master plan and adopted pursuant to s. 1013.30 is exempt from this section.

(t) Any development in a specific area plan which is prepared pursuant to s. 163.3245 and adopted into the comprehensive plan is exempt from this section.

(u) Any development within a county with a research and education authority created by special act and that is also within a research and development park that is operated or managed by a research and development authority pursuant to part V of chapter 159 is exempt from this section.

If a use is exempt from review as a development of regional impact under paragraphs (a)-(t), ~~except for paragraph (u),~~ but will be part of a larger project that is subject to review as a development of regional impact, the impact of the exempt use must be included in the review of the larger project.

Reviser's note.—Amended to improve clarity and eliminate redundancy.

Section 74. Paragraph (c) of subsection (3) of section 380.23, Florida Statutes, is amended to read:

380.23 Federal consistency.—

(3) Consistency review shall be limited to review of the following activities, uses, and projects to ensure that such activities, uses, and projects are conducted in accordance with the state's coastal management program:

(c) Federally licensed or permitted activities affecting land or water uses when such activities are in or seaward of the jurisdiction of local governments required to develop a coastal zone protection element as provided in s. 380.24 and when such activities involve:

1. Permits and licenses required under the Rivers and Harbors Act of 1899, 33 U.S.C. ss. 401 et seq., as amended.

2. Permits and licenses required under the Marine Protection, Research and Sanctuaries Act of 1972, 33 U.S.C. ss. 1401-1445 and 16 U.S.C. ss. 1431-1445, as amended.

3. Permits and licenses required under the Federal Water Pollution Control Act of 1972, 33 U.S.C. ss. 1251 et seq., as amended, unless such permitting activities have been delegated to the state pursuant to said act.

4. Permits and licenses relating to the transportation of hazardous substance materials or transportation and dumping which are issued pursuant

to the Hazardous Materials Transportation Act, 49 U.S.C. ss. 1501 et seq., as amended, or 33 U.S.C. s. 1321, as amended.

5. Permits and licenses required under 15 U.S.C. ss. 717-717w, 3301-3432, 42 U.S.C. ss. 7101-7352, and 43 U.S.C. ss. 1331-1356 for construction and operation of interstate gas pipelines and storage facilities.

6. Permits and licenses required for the siting and construction of any new electrical power plants as defined in s. 403.503(13) ~~403.503(12)~~, as amended, and the licensing and relicensing of hydroelectric power plants under the Federal Power Act, 16 U.S.C. ss. 791a et seq., as amended.

7. Permits and licenses required under the Mining Law of 1872, 30 U.S.C. ss. 21 et seq., as amended; the Mineral Lands Leasing Act, 30 U.S.C. ss. 181 et seq., as amended; the Mineral Leasing Act for Acquired Lands, 30 U.S.C. ss. 351 et seq., as amended; the Federal Land Policy and Management Act, 43 U.S.C. ss. 1701 et seq., as amended; the Mining in the Parks Act, 16 U.S.C. ss. 1901 et seq., as amended; and the OCS Lands Act, 43 U.S.C. ss. 1331 et seq., as amended, for drilling, mining, pipelines, geological and geophysical activities, or rights-of-way on public lands and permits and licenses required under the Indian Mineral Development Act, 25 U.S.C. ss. 2101 et seq., as amended.

8. Permits and licenses for areas leased under the OCS Lands Act, 43 U.S.C. ss. 1331 et seq., as amended, including leases and approvals of exploration, development, and production plans.

9. Permits and licenses required under the Deepwater Port Act of 1974, 33 U.S.C. ss. 1501 et seq., as amended.

10. Permits required for the taking of marine mammals under the Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. s. 1374.

Reviser's note.—Amended to conform to the redesignation of s. 403.503(12) as s. 403.503(13) by s. 20, ch. 2006-230, Laws of Florida.

Section 75. Paragraph (i) of subsection (3) of section 381.028, Florida Statutes, is amended to read:

381.028 Adverse medical incidents.—

(3) DEFINITIONS.—As used in s. 25, Art. X of the State Constitution and this act, the term:

(i) "Privacy restrictions imposed by federal law" means the provisions relating to the disclosure of patient privacy information under federal law, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Pub. L. No. 104-191 ~~104-91~~, and its implementing regulations, the Federal Privacy Act, 5 U.S.C. s. 552(a), and its implementing regulations, and any other federal law, including, but not limited to, federal common law and decisional law, that would prohibit the disclosure of patient privacy information.

Reviser's note.—Amended to conform to context. The Health Insurance Portability and Accountability Act of 1996 is Pub. L. No. 104-191.

Section 76. Subsection (4) of section 400.0073, Florida Statutes, is amended to read:

400.0073 State and local ombudsman council investigations.—

(4) If the ombudsman or any state or local council member is not allowed to enter a long-term care facility, the administrator of the facility shall be considered to have interfered with a representative of the office, the state council, or the local council in the performance of official duties as described in s. 400.0083(1) and to have committed a violation of this part. The ombudsman shall report a facility's refusal to allow entry to the agency, and the agency shall record the report and take it into consideration when determining actions allowable under s. 400.102, s. 400.121, s. 429.14 ~~400.414~~, s. 429.19 ~~400.419~~, s. 429.69 ~~400.6194~~, or s. 429.71 ~~400.6196~~.

Reviser's note.—Amended to conform to the transfer of sections comprising parts III and VII of chapter 400 to parts I and II of chapter 429 by ss. 2, 3, ch. 2006-197, Laws of Florida.

Section 77. Paragraph (a) of subsection (2) and subsection (4) of section 400.0074, Florida Statutes, are amended to read:

400.0074 Local ombudsman council onsite administrative assessments.—

(2) An onsite administrative assessment conducted by a local council shall be subject to the following conditions:

(a) To the extent possible and reasonable, the administrative assessments shall not duplicate the efforts of the agency surveys and inspections conducted under part ~~parts~~ II~~, III, and VII~~ of this chapter and parts I and II of chapter 429.

(4) An onsite administrative assessment may not be accomplished by forcible entry. However, if the ombudsman or a state or local council member is not allowed to enter a long-term care facility, the administrator of the facility shall be considered to have interfered with a representative of the office, the state council, or the local council in the performance of official duties as described in s. 400.0083(1) and to have committed a violation of this part. The ombudsman shall report the refusal by a facility to allow entry to the agency, and the agency shall record the report and take it into consideration when determining actions allowable under s. 400.102, s. 400.121, s. 429.14 ~~400.414~~, s. 429.19 ~~400.419~~, s. 429.69 ~~400.6194~~, or s. 429.71 ~~400.6196~~.

Reviser's note.—Amended to conform to the transfer of sections comprising parts III and VII of chapter 400 to parts I and II of chapter 429 by ss. 2, 3, ch. 2006-197, Laws of Florida.

Section 78. Paragraph (a) of subsection (2) of section 400.0075, Florida Statutes, is amended to read:

400.0075 Complaint notification and resolution procedures.—

(2)(a) Upon referral from a local council, the state council shall assume the responsibility for the disposition of the complaint. If a long-term care facility fails to take action on a complaint by the state council, the state council may, after obtaining approval from the ombudsman and a majority of the state council members:

1. In accordance with s. 400.0077, publicize the complaint, the recommendations of the local or state council, and the response of the long-term care facility.

2. Recommend to the department and the agency a series of facility reviews pursuant to s. 400.19, s. 429.34 ~~400.434~~, or s. 429.67 ~~400.619~~ to ensure correction and nonrecurrence of conditions that give rise to complaints against a long-term care facility.

3. Recommend to the department and the agency that the long-term care facility no longer receive payments under any state assistance program, including Medicaid.

4. Recommend to the department and the agency that procedures be initiated for revocation of the long-term care facility's license in accordance with chapter 120.

Reviser's note.—Amended to conform to the transfer of sections comprising parts III and VII of chapter 400 to parts I and II of chapter 429 by ss. 2, 3, ch. 2006-197, Laws of Florida.

Section 79. 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 ~~residencies~~. 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 subsection (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. 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 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.

Reviser's note.—Amended to improve clarity and conform to context.

Section 80. Paragraph (b) of subsection (2) of section 402.164, Florida Statutes, is amended to read:

402.164 Legislative intent; definitions.—

(2) As used in ss. 402.164-402.167, the term:

(b) "Client" means a client of the Agency for Persons with Disabilities, the Agency for Health Care Administration, the Department of Children and Family Services, or the Department of Elderly Affairs, as defined in s. 393.063, s. 394.67, s. 397.311, or s. 400.960, a forensic client or client as defined in s. 916.106, a child or youth as defined in s. 39.01, a child as defined in s. 827.01, a family as defined in s. 414.0252, a participant as defined in s. 429.901 ~~400.551~~, a resident as defined in s. 429.02, a Medicaid recipient or recipient as defined in s. 409.901, a child receiving child care as defined in s. 402.302, a disabled adult as defined in s. 410.032 or s. 410.603, or a victim as defined in s. 39.01 or s. 415.102 as each definition applies within its respective chapter.

Reviser's note.—Amended to confirm the substitution by the editors of a reference to s. 429.901 for a reference to s. 400.551, which was transferred by s. 4, ch. 2006-197, Laws of Florida.

Section 81. Paragraphs (a) and (b) of subsection (1) and paragraph (b) of subsection (3) of section 403.091, Florida Statutes, are amended to read:

403.091 Inspections.—

(1)(a) Any duly authorized representative of the department may at any reasonable time enter and inspect, for the purpose of ascertaining the state of compliance with the law or rules and regulations of the department, any property, premises, or place, except a building which is used exclusively for a private residence, on or at which:

1. A hazardous waste generator, transporter, or facility or other air or water contaminant source;

2. A discharger, including any nondomestic discharger which introduces any pollutant into a publicly owned treatment works;

3. Any facility, as defined in s. 376.301; or

4. A resource recovery and management facility

is located or is being constructed or installed or where records which are required under this chapter, ss. 376.30-376.317 ~~376.30-376.319~~, or department rule are kept.

(b) Any duly authorized representative may at reasonable times have access to and copy any records required under this chapter or ss. 376.30-376.317 ~~376.30-376.319~~; inspect any monitoring equipment or method; sample for any pollutants as defined in s. 376.301, effluents, or wastes which the owner or operator of such source may be discharging or which may otherwise be located on or underlying the owner's or operator's property; and obtain any other information necessary to determine compliance with permit conditions or other requirements of this chapter, ss. 376.30-376.317 ~~376.30-376.319~~, or department rules.

(3)

(b) Upon proper affidavit being made, an inspection warrant may be issued under the provisions of this chapter or ss. 376.30-376.317 ~~376.30-376.319~~:

1. When it appears that the properties to be inspected may be connected with or contain evidence of the violation of any of the provisions of this chapter or ss. 376.30-376.317 ~~376.30-376.319~~ or any rule properly promulgated thereunder; or

2. When the inspection sought is an integral part of a larger scheme of systematic routine inspections which are necessary to, and consistent with, the continuing efforts of the department to ensure compliance with the provisions of this chapter or ss. 376.30-376.317 ~~376.30-376.319~~ and any rules adopted thereunder.

Reviser's note.—Amended to conform to the repeal of s. 376.319 by s. 18, ch. 99-4, Laws of Florida.

Section 82. Subsection (1) of section 403.5175, Florida Statutes, is amended to read:

403.5175 Existing electrical power plant site certification.—

(1) An electric utility that owns or operates an existing electrical power plant as defined in s. 403.503(13) ~~403.503(12)~~ may apply for certification of an existing power plant and its site in order to obtain all agency licenses necessary to ensure compliance with federal or state environmental laws and regulation using the centrally coordinated, one-stop licensing process established by this part. An application for site certification under this section must be in the form prescribed by department rule. Applications must be reviewed and processed using the same procedural steps and notices as for an application for a new facility, except that a determination of need by the Public Service Commission is not required.

Reviser's note.—Amended to conform to the redesignation of s. 403.503(12) as s. 403.503(13) by s. 20, ch. 2006-230, Laws of Florida.

Section 83. Paragraph (d) of subsection (2) of section 403.526, Florida Statutes, is amended to read:

403.526 Preliminary statements of issues, reports, and project analyses; studies.—

(2)

(d) When an agency whose agency head is a collegial body, such as a commission, board, or council, is required to submit a report pursuant to this section and is required by its own internal procedures to have the report reviewed by its agency head prior to finalization, the agency may submit to the department a draft version of the report by the deadline indicated in paragraph (a), and shall submit a final version of the report after review by

the agency head, ~~and~~ no later than 15 days after the deadline indicated in paragraph (a).

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

Section 84. Paragraph (h) of subsection (1) of section 403.5271, Florida Statutes, is amended to read:

403.5271 Alternate corridors.—

(1) No later than 45 days before the originally scheduled certification hearing, any party may propose alternate transmission line corridor routes for consideration under the provisions of this act.

(h) When an agency whose agency head is a collegial body, such as a commission, board, or council, is required to submit a report pursuant to this section and is required by its own internal procedures to have the report reviewed by its agency head prior to finalization, the agency may submit to the department a draft version of the report by the deadline indicated in paragraph (f), and shall submit a final version of the report after review by the agency head ~~and~~ no later than 7 days after the deadline indicated in paragraph (f).

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

Section 85. Subsection (2) of section 403.528, Florida Statutes, is amended to read:

403.528 Alteration of time limits.—

(2) A comprehensive application encompassing more than one proposed transmission line may be good cause for <u>alteration</u> ~~alternation~~ of time limits.

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

Section 86. Subsections (2), (3), and (5) of section 403.7043, Florida Statutes, are amended to read:

403.7043 Compost standards and applications.—

(2) ~~Within 6 months after October 1, 1988,~~ The department shall ~~initiate rulemaking to~~ establish standards for the production of compost ~~and shall complete and promulgate those rules within 12 months after initiating the process of rulemaking~~, including rules establishing:

(a) Requirements necessary to produce hygienically safe compost products for varying applications.

(b) A classification scheme for compost based on: the types of waste composted, including at least one type containing only yard trash; the maturity of the compost, including at least three degrees of decomposition for

fresh, semimature, and mature; and the levels of organic and inorganic constituents in the compost. This scheme shall address:

1. Methods for measurement of the compost maturity.

2. Particle sizes.

3. Moisture content.

4. Average levels of organic and inorganic constituents, including heavy metals, for such classes of compost as the department establishes, and the analytical methods to determine those levels.

(3) The department's rules ~~Within 6 months after October 1, 1988, the department~~ shall ~~initiate rulemaking to~~ prescribe the allowable uses and application rates of compost ~~and shall complete and promulgate those rules within 12 months after initiating the process of rulemaking,~~ based on the following criteria:

(a) The total quantity of organic and inorganic constituents, including heavy metals, allowed to be applied through the addition of compost to the soil per acre per year.

(b) The allowable uses of compost based on maturity and type of compost.

(5) The provisions of s. 403.706 shall not prohibit any county or municipality which had ~~has~~ in place a memorandum of understanding or other written agreement as of October 1, 1988, from proceeding with plans to build a compost facility.

Reviser's note.—Subsections (2) and (3), which relate to initial rulemaking, are amended to delete provisions that have served their purpose. Subsection (5) is amended to conform to context.

Section 87. Subsection (13) of section 403.708, Florida Statutes, is amended to read:

403.708 Prohibition; penalty.—

(13) ~~In accordance with the following schedule,~~ No person who knows or who should know of the nature of the following ~~such~~ solid waste shall dispose of such solid waste in landfills:

(a) Lead-acid batteries~~, after January 1, 1989~~. Lead-acid batteries also shall not be disposed of in any waste-to-energy facility ~~after January 1, 1989~~. To encourage proper collection and recycling, all persons who sell lead-acid batteries at retail shall accept used lead-acid batteries as trade-ins for new lead-acid batteries.

(b) Used oil~~, after October 1, 1988~~.

(c) Yard trash, ~~after January 1, 1992,~~ except in unlined landfills classified by department rule. Yard trash that is source separated from solid waste may be accepted at a solid waste disposal area where the area pro-

vides and maintains separate yard trash composting facilities. The department recognizes that incidental amounts of yard trash may be disposed of in lined landfills. In any enforcement action taken pursuant to this paragraph, the department shall consider the difficulty of removing incidental amounts of yard trash from a mixed solid waste stream.

(d) White goods~~, after January 1, 1990~~.

~~Prior to the effective dates specified in paragraphs (a)-(d), the department shall identify and assist in developing alternative disposal, processing, or recycling options for the solid wastes identified in paragraphs (a)-(d).~~

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

Section 88. Paragraph (f) of subsection (3) of section 408.036, Florida Statutes, is amended to read:

408.036 Projects subject to review; exemptions.—

(3) EXEMPTIONS.—Upon request, the following projects are subject to exemption from the provisions of subsection (1):

(f) For the creation of a single nursing home within a district by combining licensed beds from two or more licensed nursing homes within such district, regardless of subdistrict boundaries, if 50 percent of the beds in the created nursing home are transferred from the only nursing home in a county and its utilization data demonstrate that it had an occupancy rate of less than 75 percent for the 12-month period ending 90 days before the request for the exemption. This paragraph is repealed upon the expiration of the moratorium established in s. 408.0435(1) ~~651.1185(1)~~.

Reviser's note.—Amended to conform to the redesignation of s. 651.1185 as s. 408.0435 by s. 1, ch. 2006-161, Laws of Florida.

Section 89. Section 408.802, Florida Statutes, is amended to read:

408.802 Applicability.—The provisions of this part apply to the provision of services that require licensure as defined in this part and to the following entities licensed, registered, or certified by the agency, as described in chapters 112, 383, 390, 394, 395, 400, 429, 440, 483, and 765:

(1) Laboratories authorized to perform testing under the Drug-Free Workplace Act, as provided under ss. 112.0455 and 440.102.

(2) Birth centers, as provided under chapter 383.

(3) Abortion clinics, as provided under chapter 390.

(4) Crisis stabilization units, as provided under parts I and IV of chapter 394.

(5) Short-term residential treatment facilities, as provided under parts I and IV of chapter 394.

(6) Residential treatment facilities, as provided under part IV of chapter 394.

(7) Residential treatment centers for children and adolescents, as provided under part IV of chapter 394.

(8) Hospitals, as provided under part I of chapter 395.

(9) Ambulatory surgical centers, as provided under part I of chapter 395.

(10) Mobile surgical facilities, as provided under part I of chapter 395.

(11) Private review agents, as provided under part I of chapter 395.

(12) Health care risk managers, as provided under part I of chapter 395.

(13) Nursing homes, as provided under part II of chapter 400.

(14) Assisted living facilities, as provided under part I ~~III~~ of chapter 429 ~~400~~.

(15) Home health agencies, as provided under part III ~~IV~~ of chapter 400.

(16) Nurse registries, as provided under part III ~~IV~~ of chapter 400.

(17) Companion services or homemaker services providers, as provided under part III ~~IV~~ of chapter 400.

(18) Adult day care centers, as provided under part III ~~V~~ of chapter 429 ~~400~~.

(19) Hospices, as provided under part IV ~~VI~~ of chapter 400.

(20) Adult family-care homes, as provided under part II ~~VII~~ of chapter 429 ~~400~~.

(21) Homes for special services, as provided under part V ~~VIII~~ of chapter 400.

(22) Transitional living facilities, as provided under part V ~~VIII~~ of chapter 400.

(23) Prescribed pediatric extended care centers, as provided under part VI ~~IX~~ of chapter 400.

(24) Home medical equipment providers, as provided under part VII ~~X~~ of chapter 400.

(25) Intermediate care facilities for persons with developmental disabilities, as provided under part VIII ~~XI~~ of chapter 400.

(26) Health care services pools, as provided under part IX ~~XII~~ of chapter 400.

(27) Health care clinics, as provided under part X ~~XIII~~ of chapter 400.

(28) Clinical laboratories, as provided under part I of chapter 483.

(29) Multiphasic health testing centers, as provided under part II of chapter 483.

(30) Organ and tissue procurement agencies, as provided under chapter 765.

Reviser's note.—Amended to conform to the redesignation of former parts III, V, and VII of chapter 400 as parts I, III, and II of chapter 429, respectively, by ss. 2, 3, 4, ch. 2006-197, Laws of Florida.

Section 90. Subsection (3) of section 408.803, Florida Statutes, is amended to read:

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

(3) "Authorizing statute" means the statute authorizing the licensed operation of a provider listed in s. 408.802 and includes chapters 112, 383, 390, 394, 395, 400, 429, 440, 483, and 765.

Reviser's note.—Amended to conform to the redesignation of former parts III, V, and VII of chapter 400 as chapter 429 by ch. 2006-197, Laws of Florida.

Section 91. Paragraph (b) of subsection (7) of section 408.806, Florida Statutes, is amended to read:

408.806 License application process.—

(7)

(b) An initial inspection is not required for companion services or homemaker services providers, as provided under part III ~~IV~~ of chapter 400, or for health care services pools, as provided under part IX ~~XII~~ of chapter 400.

Reviser's note.—Amended to conform to the redesignation of parts within chapter 400 necessitated by the redesignation of former parts III, V, and VIII as chapter 429 by ch. 2006-197, Laws of Florida.

Section 92. Subsections (14), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), and (26) of section 408.820, Florida Statutes, are amended to read:

408.820 Exemptions.—Except as prescribed in authorizing statutes, the following exemptions shall apply to specified requirements of this part:

(14) Assisted living facilities, as provided under part I ~~III~~ of chapter 429 ~~400~~, are exempt from s. 408.810(10).

(15) Home health agencies, as provided under part III ~~IV~~ of chapter 400, are exempt from s. 408.810(10).

(16) Nurse registries, as provided under part III ~~IV~~ of chapter 400, are exempt from s. 408.810(6) and (10).

(17) Companion services or homemaker services providers, as provided under part III ~~IV~~ of chapter 400, are exempt from s. 408.810(6)-(10).

(18) Adult day care centers, as provided under part III ~~V~~ of chapter 429 ~~400~~, are exempt from s. 408.810(10).

(19) Adult family-care homes, as provided under part II ~~VII~~ of chapter 429 ~~400~~, are exempt from s. 408.810(7)-(10).

(20) Homes for special services, as provided under part V ~~VIII~~ of chapter 400, are exempt from s. 408.810(7)-(10).

(21) Transitional living facilities, as provided under part V ~~VIII~~ of chapter 400, are exempt from s. 408.810(7)-(10).

(22) Prescribed pediatric extended care centers, as provided under part VI ~~IX~~ of chapter 400, are exempt from s. 408.810(10).

(23) Home medical equipment providers, as provided under part VII ~~X~~ of chapter 400, are exempt from s. 408.810(10).

(24) Intermediate care facilities for persons with developmental disabilities, as provided under part VIII ~~XI~~ of chapter 400, are exempt from s. 408.810(7).

(25) Health care services pools, as provided under part IX ~~XII~~ of chapter 400, are exempt from s. 408.810(6)-(10).

(26) Health care clinics, as provided under part X ~~XIII~~ of chapter 400, are exempt from ss. 408.809 and 408.810(1), (6), (7), and (10).

Reviser's note.—Amended to conform to the redesignation of former parts III, V, and VII of chapter 400 as parts I, III, and II of chapter 429, respectively, by ss. 2, 3, 4, ch. 2006-197, Laws of Florida.

Section 93. Section 408.832, Florida Statutes, is amended to read:

408.832 Conflicts.—In case of conflict between the provisions of part II of chapter 408 and the authorizing statutes governing the licensure of health care providers by the Agency for Health Care Administration found in s. 112.0455 and chapters 383, 390, 394, 395, 400, 429, 440, 483, and 765, the provisions of part II of chapter 408 shall prevail.

Reviser's note.—Amended to conform to the redesignation of former parts III, V, and VII of chapter 400 as chapter 429 pursuant to ch. 2006-197, Laws of Florida.

Section 94. Paragraph (a) of subsection (3) of section 409.1685, Florida Statutes, is amended to read:

409.1685 Children in foster care; annual report to Legislature.—The Department of Children and Family Services shall submit a written report to the substantive committees of the Legislature concerning the status of children in foster care and concerning the judicial review mandated by part X

of chapter 39. This report shall be submitted by March 1 of each year and shall include the following information for the prior calendar year:

(3) The number of termination of parental rights proceedings instituted during that period which shall include:

(a) The number of termination of parental rights proceedings initiated pursuant to former s. 39.703; and

Reviser's note.—Amended to clarify the status of referenced s. 39.703, which was repealed by s. 35, ch. 2006-86, Laws of Florida.

Section 95. Paragraph (e) of subsection (4) of section 409.221, Florida Statutes, is amended to read:

409.221 Consumer-directed care program.—

(4) CONSUMER-DIRECTED CARE.—

(e) Services.—Consumers shall use the budget allowance only to pay for home and community-based services that meet the consumer's long-term care needs and are a cost-efficient use of funds. Such services may include, but are not limited to, the following:

1. Personal care.

2. Homemaking and chores, including housework, meals, shopping, and transportation.

3. Home modifications and assistive devices which may increase the consumer's independence or make it possible to avoid institutional placement.

4. Assistance in taking self-administered medication.

5. Day care and respite care services, including those provided by nursing home facilities pursuant to s. 400.141(6) or by adult day care facilities licensed pursuant to s. 429.907 ~~400.554~~.

6. Personal care and support services provided in an assisted living facility.

Reviser's note.—Amended to conform to the transfer of s. 400.554 to s. 429.907 by s. 4, ch. 2006-197, Laws of Florida.

Section 96. Paragraph (a) of subsection (2) of section 409.908, Florida Statutes, is amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient

and effective for purchasing services or goods on behalf of recipients. If a provider is reimbursed based on cost reporting and submits a cost report late and that cost report would have been used to set a lower reimbursement rate for a rate semester, then the provider's rate for that semester shall be retroactively calculated using the new cost report, and full payment at the recalculated rate shall be effected retroactively. Medicare-granted extensions for filing cost reports, if applicable, shall also apply to Medicaid cost reports. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(2)(a)1. Reimbursement to nursing homes licensed under part II of chapter 400 and state-owned-and-operated intermediate care facilities for the developmentally disabled licensed under part VIII ~~XI~~ of chapter 400 must be made prospectively.

2. Unless otherwise limited or directed in the General Appropriations Act, reimbursement to hospitals licensed under part I of chapter 395 for the provision of swing-bed nursing home services must be made on the basis of the average statewide nursing home payment, and reimbursement to a hospital licensed under part I of chapter 395 for the provision of skilled nursing services must be made on the basis of the average nursing home payment for those services in the county in which the hospital is located. When a hospital is located in a county that does not have any community nursing homes, reimbursement shall be determined by averaging the nursing home payments in counties that surround the county in which the hospital is located. Reimbursement to hospitals, including Medicaid payment of Medicare copayments, for skilled nursing services shall be limited to 30 days, unless a prior authorization has been obtained from the agency. Medicaid reimbursement may be extended by the agency beyond 30 days, and approval must be based upon verification by the patient's physician that the patient requires short-term rehabilitative and recuperative services only, in which case an extension of no more than 15 days may be approved. Reimbursement to a hospital licensed under part I of chapter 395 for the temporary provision of skilled nursing services to nursing home residents who have been displaced as the result of a natural disaster or other emergency may not exceed the average county nursing home payment for those services in the county in which the hospital is located and is limited to the period of time which the agency considers necessary for continued placement of the nursing home residents in the hospital.

Reviser's note.—Amended to conform to the transfer of sections comprising parts III, V, and VII of chapter 400 to chapter 429 by ss. 2, 3, and 4, ch. 2006-197, Laws of Florida.

Section 97. Paragraph (b) of subsection (4) of section 409.912, Florida Statutes, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. To ensure that medical services are effectively utilized, the agency may, in any case, require a confirmation or second physician's opinion of the correct diagnosis for purposes of authorizing future services under the Medicaid program. This section does not restrict access to emergency services or poststabilization care services as defined in 42 C.F.R. part 438.114. Such confirmation or second opinion shall be rendered in a manner approved by the agency. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services. The agency shall contract with a vendor to monitor and evaluate the clinical practice patterns of providers in order to identify trends that are outside the normal practice patterns of a provider's professional peers or the national guidelines of a provider's professional association. The vendor must be able to provide information and counseling to a provider whose practice patterns are outside the norms, in consultation with the agency, to improve patient care and reduce inappropriate utilization. The agency may mandate prior authorization, drug therapy management, or disease management participation for certain populations of Medicaid beneficiaries, certain drug classes, or particular drugs to prevent fraud, abuse, overuse, and possible dangerous drug interactions. The Pharmaceutical and Therapeutics Committee shall make recommendations to the agency on drugs for which prior authorization is required. The agency shall inform the Pharmaceutical and Therapeutics Committee of its decisions regarding drugs subject to prior authorization. The agency is authorized to limit the entities it contracts with or enrolls as Medicaid providers by developing a provider network through provider credentialing. The agency may competitively bid single-source-provider contracts if procurement of goods or services results in demonstrated cost savings to the state without limiting access to care. The agency may limit its network based on the assessment of beneficiary access to care, provider availability, provider quality standards, time and distance standards for access to care, the cultural competence of the provider network, demographic characteristics of Medicaid beneficiaries, practice and provider-to-beneficiary standards, appointment wait times, beneficiary use of services, provider turnover, provider profiling, provider licensure history, previous program integrity investigations and findings, peer review, provider Medicaid policy and billing compliance records, clinical and medical record audits, and other factors. Providers shall not be entitled to enrollment in the Medicaid provider network. The agency shall determine instances in which allowing Medicaid beneficiaries to purchase durable medical equipment and other goods is less expensive to the Medicaid program than long-term rental of the equipment or goods. The agency may establish rules to facilitate purchases in lieu of long-term rentals in order to protect against fraud and abuse in the Medicaid program as defined in s. 409.913. The agency may seek federal waivers necessary to administer these policies.

(4) The agency may contract with:

(b) An entity that is providing comprehensive behavioral health care services to certain Medicaid recipients through a capitated, prepaid arrangement pursuant to the federal waiver provided for by s. 409.905(5). Such an entity must be licensed under chapter 624, chapter 636, or chapter 641 and must possess the clinical systems and operational competence to manage risk and provide comprehensive behavioral health care to Medicaid recipients. As used in this paragraph, the term "comprehensive behavioral health care services" means covered mental health and substance abuse treatment services that are available to Medicaid recipients. The secretary of the Department of Children and Family Services shall approve provisions of procurements related to children in the department's care or custody prior to enrolling such children in a prepaid behavioral health plan. Any contract awarded under this paragraph must be competitively procured. In developing the behavioral health care prepaid plan procurement document, the agency shall ensure that the procurement document requires the contractor to develop and implement a plan to ensure compliance with s. 394.4574 related to services provided to residents of licensed assisted living facilities that hold a limited mental health license. Except as provided in subparagraph 8., and except in counties where the Medicaid managed care pilot program is authorized pursuant <u>to</u> s. 409.91211, the agency shall seek federal approval to contract with a single entity meeting these requirements to provide comprehensive behavioral health care services to all Medicaid recipients not enrolled in a Medicaid managed care plan authorized under s. 409.91211 or a Medicaid health maintenance organization in an AHCA area. In an AHCA area where the Medicaid managed care pilot program is authorized pursuant to s. 409.91211 in one or more counties, the agency may procure a contract with a single entity to serve the remaining counties as an AHCA area or the remaining counties may be included with an adjacent AHCA area and shall be subject to this paragraph. Each entity must offer sufficient choice of providers in its network to ensure recipient access to care and the opportunity to select a provider with whom they are satisfied. The network shall include all public mental health hospitals. To ensure unimpaired access to behavioral health care services by Medicaid recipients, all contracts issued pursuant to this paragraph shall require 80 percent of the capitation paid to the managed care plan, including health maintenance organizations, to be expended for the provision of behavioral health care services. In the event the managed care plan expends less than 80 percent of the capitation paid pursuant to this paragraph for the provision of behavioral health care services, the difference shall be returned to the agency. The agency shall provide the managed care plan with a certification letter indicating the amount of capitation paid during each calendar year for the provision of behavioral health care services pursuant to this section. The agency may reimburse for substance abuse treatment services on a fee-for-service basis until the agency finds that adequate funds are available for capitated, prepaid arrangements.

1. By January 1, 2001, the agency shall modify the contracts with the entities providing comprehensive inpatient and outpatient mental health care services to Medicaid recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk Counties, to include substance abuse treatment services.

2. By July 1, 2003, the agency and the Department of Children and Family Services shall execute a written agreement that requires collaboration and joint development of all policy, budgets, procurement documents, contracts, and monitoring plans that have an impact on the state and Medicaid community mental health and targeted case management programs.

3. Except as provided in subparagraph 8., by July 1, 2006, the agency and the Department of Children and Family Services shall contract with managed care entities in each AHCA area except area 6 or arrange to provide comprehensive inpatient and outpatient mental health and substance abuse services through capitated prepaid arrangements to all Medicaid recipients who are eligible to participate in such plans under federal law and regulation. In AHCA areas where eligible individuals number less than 150,000, the agency shall contract with a single managed care plan to provide comprehensive behavioral health services to all recipients who are not enrolled in a Medicaid health maintenance organization or a Medicaid capitated managed care plan authorized under s. 409.91211. The agency may contract with more than one comprehensive behavioral health provider to provide care to recipients who are not enrolled in a Medicaid capitated managed care plan authorized under s. 409.91211 or a Medicaid health maintenance organization in AHCA areas where the eligible population exceeds 150,000. In an AHCA area where the Medicaid managed care pilot program is authorized pursuant to s. 409.91211 in one or more counties, the agency may procure a contract with a single entity to serve the remaining counties as an AHCA area or the remaining counties may be included with an adjacent AHCA area and shall be subject to this paragraph. Contracts for comprehensive behavioral health providers awarded pursuant to this section shall be competitively procured. Both for-profit and not-for-profit corporations shall be eligible to compete. Managed care plans contracting with the agency under subsection (3) shall provide and receive payment for the same comprehensive behavioral health benefits as provided in AHCA rules, including handbooks incorporated by reference. In AHCA area 11, the agency shall contract with at least two comprehensive behavioral health care providers to provide behavioral health care to recipients in that area who are enrolled in, or assigned to, the MediPass program. One of the behavioral health care contracts shall be with the existing provider service network pilot project, as described in paragraph (d), for the purpose of demonstrating the cost-effectiveness of the provision of quality mental health services through a public hospital-operated managed care model. Payment shall be at an agreed-upon capitated rate to ensure cost savings. Of the recipients in area 11 who are assigned to MediPass under the provisions of s. 409.9122(2)(k), a minimum of 50,000 of those MediPass-enrolled recipients shall be assigned to the existing provider service network in area 11 for their behavioral care.

4. By October 1, 2003, the agency and the department shall submit a plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives which provides for the full implementation of capitated prepaid behavioral health care in all areas of the state.

a. Implementation shall begin in 2003 in those AHCA areas of the state where the agency is able to establish sufficient capitation rates.

b. If the agency determines that the proposed capitation rate in any area is insufficient to provide appropriate services, the agency may adjust the capitation rate to ensure that care will be available. The agency and the department may use existing general revenue to address any additional required match but may not over-obligate existing funds on an annualized basis.

c. Subject to any limitations provided for in the General Appropriations Act, the agency, in compliance with appropriate federal authorization, shall develop policies and procedures that allow for certification of local and state funds.

5. Children residing in a statewide inpatient psychiatric program, or in a Department of Juvenile Justice or a Department of Children and Family Services residential program approved as a Medicaid behavioral health overlay services provider shall not be included in a behavioral health care prepaid health plan or any other Medicaid managed care plan pursuant to this paragraph.

6. In converting to a prepaid system of delivery, the agency shall in its procurement document require an entity providing only comprehensive behavioral health care services to prevent the displacement of indigent care patients by enrollees in the Medicaid prepaid health plan providing behavioral health care services from facilities receiving state funding to provide indigent behavioral health care, to facilities licensed under chapter 395 which do not receive state funding for indigent behavioral health care, or reimburse the unsubsidized facility for the cost of behavioral health care provided to the displaced indigent care patient.

7. Traditional community mental health providers under contract with the Department of Children and Family Services pursuant to part IV of chapter 394, child welfare providers under contract with the Department of Children and Family Services in areas 1 and 6, and inpatient mental health providers licensed pursuant to chapter 395 must be offered an opportunity to accept or decline a contract to participate in any provider network for prepaid behavioral health services.

8. For fiscal year 2004-2005, all Medicaid eligible children, except children in areas 1 and 6, whose cases are open for child welfare services in the HomeSafeNet system, shall be enrolled in MediPass or in Medicaid fee-for-service and all their behavioral health care services including inpatient, outpatient psychiatric, community mental health, and case management shall be reimbursed on a fee-for-service basis. Beginning July 1, 2005, such children, who are open for child welfare services in the HomeSafeNet system, shall receive their behavioral health care services through a specialty prepaid plan operated by community-based lead agencies either through a single agency or formal agreements among several agencies. The specialty prepaid plan must result in savings to the state comparable to savings achieved in other Medicaid managed care and prepaid programs. Such plan must provide mechanisms to maximize state and local revenues. The specialty prepaid plan shall be developed by the agency and the Department of Children and Family Services. The agency is authorized to seek any federal waivers to implement this initiative.

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

Section 98. Paragraph (e) of subsection (4) of section 409.91211, Florida Statutes, is amended to read:

409.91211 Medicaid managed care pilot program.—

(4)

(e) After a recipient has made a selection or has been enrolled in a capitated managed care network, the recipient shall have 90 days in which to voluntarily disenroll and select another capitated managed care network. After 90 days, no further changes may be made except for cause. Cause shall include, but not be limited to, poor quality of care, lack of access to necessary specialty services, an unreasonable delay or denial of service, inordinate or inappropriate changes of primary care providers, service access impairments due to significant changes in the geographic location of services, or fraudulent enrollment. The agency may require a recipient to use the capitated managed care network's grievance process as specified in paragraph (3)(q) ~~(3)(g)~~ prior to the agency's determination of cause, except in cases in which immediate risk of permanent damage to the recipient's health is alleged. The grievance process, when used, must be completed in time to permit the recipient to disenroll no later than the first day of the second month after the month the disenrollment request was made. If the capitated managed care network, as a result of the grievance process, approves an enrollee's request to disenroll, the agency is not required to make a determination in the case. The agency must make a determination and take final action on a recipient's request so that disenrollment occurs no later than the first day of the second month after the month the request was made. If the agency fails to act within the specified timeframe, the recipient's request to disenroll is deemed to be approved as of the date agency action was required. Recipients who disagree with the agency's finding that cause does not exist for disenrollment shall be advised of their right to pursue a Medicaid fair hearing to dispute the agency's finding.

Reviser's note.—Amended to substitute a reference to paragraph (3)(q), relating to grievance procedures, for a reference to paragraph (3)(g), relating to a process for validating the growth of per-member costs.

Section 99. Paragraph (d) of subsection (1) of section 419.001, Florida Statutes, is amended to read:

419.001 Site selection of community residential homes.—

(1) For the purposes of this section, the following definitions shall apply:

(d) "Resident" means any of the following: a frail elder as defined in s. 429.65 ~~400.618~~; a physically disabled or handicapped person as defined in s. 760.22(7)(a); a developmentally disabled person as defined in s. 393.063; a nondangerous mentally ill person as defined in s. 394.455(18); or a child who is found to be dependent or a child in need of services as defined in s. 39.01(14), s. 984.03(9) or (12), or s. 985.03.

Reviser's note.—Amended to conform to the redesignation of s. 400.618 as s. 429.65 by s. 3, ch. 2006-197, Laws of Florida.

Section 100. Section 421.49, Florida Statutes, is amended to read:

421.49 Area of operation of housing authorities for defense housing.—In the development or the administration of projects, under ss. 421.46-421.48 ~~421.37-421.48~~, to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities or in otherwise carrying out the purposes of such law, or in the administration of such projects in accordance with the provisions of the housing authorities law, a housing authority of a city may exercise its powers within the territorial boundaries of said city and an area within 10 miles from said boundaries, excluding the area within the territorial boundaries of any other city which has heretofore established a housing authority.

Reviser's note.—Amended to conform to the repeal of ss. 421.37-421.45 by s. 60, ch. 2001-62, Laws of Florida.

Section 101. Paragraph (b) of subsection (3) of section 429.07, Florida Statutes, is amended to read:

429.07 License required; fee, display.—

(3) Any license granted by the agency must state the maximum resident capacity of the facility, the type of care for which the license is granted, the date the license is issued, the expiration date of the license, and any other information deemed necessary by the agency. Licenses shall be issued for one or more of the following categories of care: standard, extended congregate care, limited nursing services, or limited mental health.

(b) An extended congregate care license shall be issued to facilities providing, directly or through contract, services beyond those authorized in paragraph (a), including acts performed pursuant to part I of chapter 464 by persons licensed thereunder, and supportive services defined by rule to persons who otherwise would be disqualified from continued residence in a facility licensed under this part.

1. In order for extended congregate care services to be provided in a facility licensed under this part, the agency must first determine that all requirements established in law and rule are met and must specifically designate, on the facility's license, that such services may be provided and whether the designation applies to all or part of a facility. Such designation may be made at the time of initial licensure or relicensure, or upon request in writing by a licensee under this part. Notification of approval or denial of such request shall be made within 90 days after receipt of such request and all necessary documentation. Existing facilities qualifying to provide extended congregate care services must have maintained a standard license and may not have been subject to administrative sanctions during the previous 2 years, or since initial licensure if the facility has been licensed for less than 2 years, for any of the following reasons:

a. A class I or class II violation;

b. Three or more repeat or recurring class III violations of identical or similar resident care standards as specified in rule from which a pattern of noncompliance is found by the agency;

c. Three or more class III violations that were not corrected in accordance with the corrective action plan approved by the agency;

d. Violation of resident care standards resulting in a requirement to employ the services of a consultant pharmacist or consultant dietitian;

e. Denial, suspension, or revocation of a license for another facility under this part in which the applicant for an extended congregate care license has at least 25 percent ownership interest; or

f. Imposition of a moratorium on admissions or initiation of injunctive proceedings.

2. Facilities that are licensed to provide extended congregate care services shall maintain a written progress report on each person who receives such services, which report describes the type, amount, duration, scope, and outcome of services that are rendered and the general status of the resident's health. A registered nurse, or appropriate designee, representing the agency shall visit such facilities at least quarterly to monitor residents who are receiving extended congregate care services and to determine if the facility is in compliance with this part and with rules that relate to extended congregate care. One of these visits may be in conjunction with the regular survey. The monitoring visits may be provided through contractual arrangements with appropriate community agencies. A registered nurse shall serve as part of the team that inspects such facility. The agency may waive one of the required yearly monitoring visits for a facility that has been licensed for at least 24 months to provide extended congregate care services, if, during the inspection, the registered nurse determines that extended congregate care services are being provided appropriately, and if the facility has no class I or class II violations and no uncorrected class III violations. Before such decision is made, the agency shall consult with the long-term care ombudsman council for the area in which the facility is located to determine if any complaints have been made and substantiated about the quality of services or care. The agency may not waive one of the required yearly monitoring visits if complaints have been made and substantiated.

3. Facilities that are licensed to provide extended congregate care services shall:

a. Demonstrate the capability to meet unanticipated resident service needs.

b. Offer a physical environment that promotes a homelike setting, provides for resident privacy, promotes resident independence, and allows sufficient congregate space as defined by rule.

c. Have sufficient staff available, taking into account the physical plant and firesafety features of the building, to assist with the evacuation of residents in an emergency, as necessary.

d. Adopt and follow policies and procedures that maximize resident independence, dignity, choice, and decisionmaking to permit residents to age in place to the extent possible, so that moves due to changes in functional status are minimized or avoided.

e. Allow residents or, if applicable, a resident's representative, designee, surrogate, guardian, or attorney in fact to make a variety of personal choices, participate in developing service plans, and share responsibility in decisionmaking.

f. Implement the concept of managed risk.

g. Provide, either directly or through contract, the services of a person licensed pursuant to part I of chapter 464.

h. In addition to the training mandated in s. 429.52, provide specialized training as defined by rule for facility staff.

4. Facilities licensed to provide extended congregate care services are exempt from the criteria for continued residency as set forth in rules adopted under s. 429.41. Facilities so licensed shall adopt their own requirements within guidelines for continued residency set forth by the department in rule. However, such facilities may not serve residents who require 24-hour nursing supervision. Facilities licensed to provide extended congregate care services shall provide each resident with a written copy of facility policies governing admission and retention.

5. The primary purpose of extended congregate care services is to allow residents, as they become more impaired, the option of remaining in a familiar setting from which they would otherwise be disqualified for continued residency. A facility licensed to provide extended congregate care services may also admit an individual who exceeds the admission criteria for a facility with a standard license, if the individual is determined appropriate for admission to the extended congregate care facility.

6. Before admission of an individual to a facility licensed to provide extended congregate care services, the individual must undergo a medical examination as provided in s. 429.26(4) ~~400.26(4)~~ and the facility must develop a preliminary service plan for the individual.

7. When a facility can no longer provide or arrange for services in accordance with the resident's service plan and needs and the facility's policy, the facility shall make arrangements for relocating the person in accordance with s. 429.28(1)(k).

8. Failure to provide extended congregate care services may result in denial of extended congregate care license renewal.

9. No later than January 1 of each year, the department, in consultation with the agency, shall prepare and submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of appropriate legislative committees, a report on the status of, and recommendations related to, extended congregate care services. The status report must include, but need not be limited to, the following information:

a. A description of the facilities licensed to provide such services, including total number of beds licensed under this part.

b. The number and characteristics of residents receiving such services.

c. The types of services rendered that could not be provided through a standard license.

d. An analysis of deficiencies cited during licensure inspections.

e. The number of residents who required extended congregate care services at admission and the source of admission.

f. Recommendations for statutory or regulatory changes.

g. The availability of extended congregate care to state clients residing in facilities licensed under this part and in need of additional services, and recommendations for appropriations to subsidize extended congregate care services for such persons.

h. Such other information as the department considers appropriate.

Reviser's note.—Amended to confirm the substitution by the editors of a reference to s. 429.26(4) for a reference to s. 400.26(4) to correct an apparent error. Section 400.26 was repealed in 1970; s. 429.26(4) relates to medical examinations.

Section 102. Subsection (2) of section 429.35, Florida Statutes, is amended to read:

429.35 Maintenance of records; reports.—

(2) Within 60 days after the date of the biennial inspection visit or within 30 days after the date of any interim visit, the agency shall forward the results of the inspection to the local ombudsman council in whose planning and service area, as defined in part II <u>of chapter 400</u>, the facility is located; to at least one public library or, in the absence of a public library, the county seat in the county in which the inspected assisted living facility is located; and, when appropriate, to the district Adult Services and Mental Health Program Offices.

Reviser's note.—Amended to confirm the insertion by the editors of the words "of chapter 400" following the cite to "part II" to improve clarity; planning and service areas are defined in s. 400.021(15) within part II of chapter 400.

Section 103. Subsection (1) of section 429.69, Florida Statutes, is amended to read:

429.69 Denial, revocation, or suspension of a license.—The agency may deny, suspend, or revoke a license for any of the following reasons:

(1) Failure of any of the persons required to undergo background screening under s. <u>429.67</u> ~~400.619~~ to meet the level 1 screening standards of s.

435.03, unless an exemption from disqualification has been provided by the agency.

Reviser's note.—Amended to confirm the substitution by the editors of a reference to s. 429.67 for a reference to s. 400.619 to conform to the transfer of s. 400.619 to s. 429.67 by s. 3, ch. 2006-197, Laws of Florida.

Section 104. Paragraph (h) of subsection (1) of section 429.73, Florida Statutes, is amended to read:

429.73 Rules and standards relating to adult family-care homes.—

(1) The department, in consultation with the Department of Health, the Department of Children and Family Services, and the agency shall, by rule, establish minimum standards to ensure the health, safety, and well-being of each resident in the adult family-care home. The rules must address:

(h) Procedures to protect the residents' rights as provided in s. 429.85 ~~400.628~~.

Reviser's note.—Amended to confirm the substitution by the editors of a reference to s. 429.85 for a reference to s. 400.628 to conform to the transfer of s. 400.628 to s. 429.85 by s. 3, ch. 2006-197, Laws of Florida.

Section 105. Section 429.903, Florida Statutes, is amended to read:

429.903 Applicability.—Any facility that comes within the definition of an adult day care center which is not exempt under s. 429.905 ~~400.553~~ must be licensed by the agency as an adult day care center.

Reviser's note.—Amended to confirm the substitution by the editors of a reference to s. 429.905 for a reference to s. 400.553 to conform to the transfer of s. 400.553 to s. 429.905 by s. 4, ch. 2006-197, Laws of Florida.

Section 106. Subsection (1) and paragraph (d) of subsection (2) of section 429.909, Florida Statutes, are amended to read:

429.909 Application for license.—

(1) An application for a license to operate an adult day care center must be made to the agency on forms furnished by the agency and must be accompanied by the appropriate license fee unless the applicant is exempt from payment of the fee as provided in s. 429.907(4) ~~400.554(4)~~.

(2) The applicant for licensure must furnish:

(d) Proof of compliance with level 2 background screening as required under s. 429.919 ~~400.5572~~.

Reviser's note.—Subsection (1) is amended to confirm the substitution by the editors of a reference to s. 429.907(4) for a reference to s. 400.554(4) to conform to the transfer of s. 400.554 to s. 429.907 by s. 4, ch. 2006-197, Laws of Florida. Paragraph (2)(d) is amended to confirm the substitution by the editors of a reference to s. 429.919 for a reference to s. 400.5572 to conform to the transfer of s. 400.5572 to s. 429.919 by s. 4, ch. 2006-197.

Section 107. Subsection (1) of section 429.915, Florida Statutes, is amended to read:

429.915 Expiration of license; renewal; conditional license or permit.—

(1) A license issued for the operation of an adult day care center, unless sooner suspended or revoked, expires 2 years after the date of issuance. The agency shall notify a licensee at least 120 days before the expiration date that license renewal is required to continue operation. The notification must be provided electronically or by mail delivery. At least 90 days prior to the expiration date, an application for renewal must be submitted to the agency. A license shall be renewed, upon the filing of an application on forms furnished by the agency, if the applicant has first met the requirements of this part and of the rules adopted under this part. The applicant must file with the application satisfactory proof of financial ability to operate the center in accordance with the requirements of this part and in accordance with the needs of the participants to be served and an affidavit of compliance with the background screening requirements of s. 429.919 ~~400.5572~~.

Reviser's note.—Amended to confirm the substitution by the editors of a reference to s. 429.919 for a reference to s. 400.5572 to conform to the transfer of s. 400.5572 to s. 429.919 by s. 4, ch. 2006-197, Laws of Florida.

Section 108. Paragraph (c) of subsection (2) of section 429.919, Florida Statutes, is amended to read:

429.919 Background screening.—

(2) The owner or administrator of an adult day care center must conduct level 1 background screening as set forth in chapter 435 on all employees hired on or after October 1, 1998, who provide basic services or supportive and optional services to the participants. Such persons satisfy this requirement if:

(c) The person required to be screened is employed by a corporation or business entity or related corporation or business entity that owns, operates, or manages more than one facility or agency licensed under chapter 400 or this chapter ~~this chapter or chapter 429~~, and for whom a level 1 screening was conducted by the corporation or business entity as a condition of initial or continued employment.

Reviser's note.—Amended to confirm the substitution by the editors of the words "chapter 400 or this chapter" for a reference to "this chapter or chapter 429" to conform to the transfer of some material in chapter 400 to chapter 429 by ch. 2006-197, Laws of Florida, and to correct an apparent error.

Section 109. Paragraph (ff) of subsection (2) of section 435.03, Florida Statutes, is amended to read:

435.03 Level 1 screening standards.—

(2) Any person for whom employment screening is required by statute must not have been found guilty of, regardless of adjudication, or entered

a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(ff) Section 916.1075 ~~916.0175~~, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. The cited section does not exist; s. 916.1075 relates to prohibition of sexual misconduct with forensic clients.

Section 110. Paragraph (pp) of subsection (2) of section 435.04, Florida Statutes, is amended to read:

435.04 Level 2 screening standards.—

(2) The security background investigations under this section must ensure that no persons subject to the provisions of this section have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(pp) Section 916.1075 ~~916.0175~~, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. The cited section does not exist; s. 916.1075 relates to prohibition of sexual misconduct with forensic clients.

Section 111. Paragraph (t) of subsection (1) and subsection (4) of section 456.072, Florida Statutes, are amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(t) Failing to identify through written notice, which may include the wearing of a name tag, or orally to a patient the type of license under which the practitioner is practicing. Any advertisement for health care services naming the practitioner must identify the type of license the practitioner holds. This paragraph does not apply to a practitioner while the practitioner is providing services in a facility licensed under chapter 394, chapter 395, ~~or~~ chapter 400, or chapter 429. Each board, or the department where there is no board, is authorized by rule to determine how its practitioners may comply with this disclosure requirement.

(4) In addition to any other discipline imposed through final order, or citation, entered on or after July 1, 2001, under this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is no board, shall assess costs related to the investigation and prosecution of the case. The costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the

time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is ~~in~~ no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto. In any case where the board or the department imposes a fine or assessment and the fine or assessment is not paid within a reasonable time, the reasonable time to be prescribed in the rules of the board, or the department when there is no board, or in the order assessing the fines or costs, the department or the Department of Legal Affairs may contract for the collection of, or bring a civil action to recover, the fine or assessment.

Reviser's note.—Paragraph (1)(t) is amended to conform to the fact that chapter 400 was split into chapters 400 and 429 by ss. 2, 3, and 4, ch. 2006-197, Laws of Florida. Subsection (4) is amended to confirm the editorial substitution of the word "is" for the word "in" to correct an apparent error and facilitate correct interpretation.

Section 112. Paragraph (e) of subsection (4) of section 458.348, Florida Statutes, is amended to read:

458.348 Formal supervisory relationships, standing orders, and established protocols; notice; standards.—

(4) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.—A physician who supervises an advanced registered nurse practitioner or physician assistant at a medical office other than the physician's primary practice location, where the advanced registered nurse practitioner or physician assistant is not under the onsite supervision of a supervising physician, must comply with the standards set forth in this subsection. For the purpose of this subsection, a physician's "primary practice location" means the address reflected on the physician's profile published pursuant to s. 456.041.

(e) This subsection does not apply to health care services provided in facilities licensed under chapter 395 or in conjunction with a college of medicine, a college of nursing, an accredited graduate medical program, or a nursing education program; offices where the only service being performed is hair removal by an advanced registered nurse practitioner or physician assistant; not-for-profit, family-planning clinics that are not licensed pursuant to chapter 390; rural and federally qualified health centers; health care services provided in a nursing home licensed under part II of chapter 400, an assisted living facility licensed under part I ~~III~~ of chapter 429 ~~400~~, a continuing care facility licensed under chapter 651, or a retirement community consisting of independent living units and a licensed nursing home or assisted living facility; anesthesia services provided in accordance with law; health care services provided in a designated rural health clinic; health care services provided to persons enrolled in a program designed to maintain elderly persons and persons with disabilities in a home or community-based setting; university primary care student health centers; school health clinics; or health care services provided in federal, state, or local government facilities.

Reviser's note.—Amended to conform to the redesignation of part III of chapter 400 as part I of chapter 429 by s. 2, ch. 2006-197, Laws of Florida.

Section 113. Subsection (3) of section 458.3485, Florida Statutes, is amended to read:

458.3485 Medical assistant.—

(3) CERTIFICATION.—Medical assistants may be certified by the American Association of Medical Assistants or as a Registered Medical Assistant by the American ~~Society of~~ Medical Technologists.

Reviser's note.—Amended to correct the name of the credentialing organization.

Section 114. Paragraph (e) of subsection (3) of section 459.025, Florida Statutes, is amended to read:

459.025 Formal supervisory relationships, standing orders, and established protocols; notice; standards.—

(3) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.—An osteopathic physician who supervises an advanced registered nurse practitioner or physician assistant at a medical office other than the osteopathic physician's primary practice location, where the advanced registered nurse practitioner or physician assistant is not under the onsite supervision of a supervising osteopathic physician, must comply with the standards set forth in this subsection. For the purpose of this subsection, an osteopathic physician's "primary practice location" means the address reflected on the physician's profile published pursuant to s. 456.041.

(e) This subsection does not apply to health care services provided in facilities licensed under chapter 395 or in conjunction with a college of medicine or college of nursing or an accredited graduate medical or nursing education program; offices where the only service being performed is hair removal by an advanced registered nurse practitioner or physician assistant; not-for-profit, family-planning clinics that are not licensed pursuant to chapter 390; rural and federally qualified health centers; health care services provided in a nursing home licensed under part II of chapter 400, an assisted living facility licensed under part <u>I</u> ~~III~~ of chapter <u>429</u> ~~400~~, a continuing care facility licensed under chapter 651, or a retirement community consisting of independent living units and either a licensed nursing home or assisted living facility; anesthesia services provided in accordance with law; health care services provided in a designated rural health clinic; health care services provided to persons enrolled in a program designed to maintain elderly persons and persons with disabilities in a home or community-based setting; university primary care student health centers; school health clinics; or health care services provided in federal, state, or local government facilities.

Reviser's note.—Amended to conform to the redesignation of part III of chapter 400 as part I of chapter 429 by s. 2, ch. 2006-197, Laws of Florida.

Section 115. Paragraph (a) of subsection (1) of section 482.242, Florida Statutes, is amended to read:

482.242 Preemption.—

(1) This chapter is intended as comprehensive and exclusive regulation of pest control in this state. The provisions of this chapter preempt to the state all regulation of the activities and operations of pest control services, including the pesticides used pursuant to labeling and registration approved under part I of chapter 487. No local government or political subdivision of the state may enact or enforce an ordinance that regulates pest control, except that the preemption in this section does not prohibit a local government or political subdivision from enacting an ordinance regarding any of the following:

(a) Local business taxes ~~occupational licenses~~ adopted pursuant to chapter 205.

Reviser's note.—Amended to conform to the redesignation of occupational license taxes in chapter 205 as business taxes by ch. 2006-152, Laws of Florida.

Section 116. Subsection (5) of section 483.285, Florida Statutes, is amended to read:

483.285 Application of part; exemptions.—This part applies to all multiphasic health testing centers within the state, but does not apply to:

(5) A home health agency licensed under part III ~~IV~~ of chapter 400.

Reviser's note.—Amended to conform to the transfer of sections comprising former part III of chapter 400 to chapter 429 by s. 2, ch. 2006-197, Laws of Florida.

Section 117. Subsection (1) of section 489.127, Florida Statutes, is amended to read:

489.127 Prohibitions; penalties.—

(1) No person shall:

(a) Falsely hold himself or herself or a business organization out as a licensee, certificateholder, or registrant;

(b) Falsely impersonate a certificateholder or registrant;

(c) Present as his or her own the certificate, registration, or certificate of authority of another;

(d) Knowingly give false or forged evidence to the board or a member thereof;

(e) Use or attempt to use a certificate, registration, or certificate of authority which has been suspended or revoked;

(f) Engage in the business or act in the capacity of a contractor or advertise himself or herself or a business organization as available to engage in the business or act in the capacity of a contractor without being duly registered or certified or having a certificate of authority;

(g) Operate a business organization engaged in contracting after 60 days following the termination of its only qualifying agent without designating another primary qualifying agent, except as provided in ss. 489.119 and 489.1195;

(h) Commence or perform work for which a building permit is required pursuant to part VII of chapter 553 without such building permit being in effect; or

(i) Willfully or deliberately disregard or violate any municipal or county ordinance relating to uncertified or unregistered contractors.

For purposes of this subsection, a person or business organization operating on an inactive or suspended certificate, registration, or certificate of authority is not duly certified or registered and is considered unlicensed. A business tax receipt ~~An occupational license certificate~~ issued under the authority of chapter 205 is not a license for purposes of this part.

Reviser's note.—Amended to conform to the redesignation of occupational license taxes in chapter 205 as business taxes by ch. 2006-152, Laws of Florida.

Section 118. Paragraph (b) of subsection (1) of section 489.128, Florida Statutes, is amended to read:

489.128 Contracts entered into by unlicensed contractors unenforceable.—

(1) As a matter of public policy, contracts entered into on or after October 1, 1990, by an unlicensed contractor shall be unenforceable in law or in equity by the unlicensed contractor.

(b) For purposes of this section, an individual or business organization may not be considered unlicensed for failing to have a business tax receipt ~~an occupational license certificate~~ issued under the authority of chapter 205. A business organization may not be considered unlicensed for failing to have a certificate of authority as required by ss. 489.119 and 489.127. For purposes of this section, a business organization entering into the contract may not be considered unlicensed if, before the date established by paragraph (c), an individual possessing a license required by this part concerning the scope of the work to be performed under the contract has submitted an application for a certificate of authority designating that individual as a qualifying agent for the business organization entering into the contract, and the application was not acted upon by the department or applicable board within the time limitations imposed by s. 120.60.

Reviser's note.—Amended to conform to the redesignation of occupational license taxes in chapter 205 as business taxes by ch. 2006-152, Laws of Florida.

Section 119. Paragraph (c) of subsection (3) of section 489.131, Florida Statutes, is amended to read:

489.131 Applicability.—

(3) Nothing in this part limits the power of a municipality or county:

(c) To collect business ~~occupational license~~ taxes, subject to s. 205.065, and inspection fees for engaging in contracting or examination fees from persons who are registered with the board pursuant to local examination requirements and issue business ~~occupational license~~ tax receipts ~~certificates~~. However, nothing in this part shall be construed to require general contractors, building contractors, or residential contractors to obtain additional business ~~occupational license~~ tax receipts ~~certificates~~ for specialty work when such specialty work is performed by employees of such contractors on projects for which they have substantially full responsibility and such contractors do not hold themselves out to the public as being specialty contractors.

Reviser's note.—Amended to conform to the redesignation of occupational license taxes in chapter 205 as business taxes by ch. 2006-152, Laws of Florida.

Section 120. Paragraph (b) of subsection (1) of section 489.532, Florida Statutes, is amended to read:

489.532 Contracts entered into by unlicensed contractors unenforceable.—

(1) As a matter of public policy, contracts entered into on or after October 1, 1990, by an unlicensed contractor shall be unenforceable in law or in equity by the unlicensed contractor.

(b) For purposes of this section, an individual or business organization shall not be considered unlicensed for failing to have a business tax receipt ~~an occupational license certificate~~ issued under the authority of chapter 205.

Reviser's note.—Amended to conform to the redesignation of occupational license taxes in chapter 205 as business taxes by ch. 2006-152, Laws of Florida.

Section 121. Subsection (1) of section 497.461, Florida Statutes, is amended to read:

497.461 Surety bonding as alternative to trust deposit.—

(1) In lieu of depositing funds into a trust as required by s. 497.458(1) ~~497.548(1)~~ or s. 497.464, a preneed licensee may elect annually, at its discretion, to comply with this section by filing annually a written request with, and receiving annual approval from, the licensing authority.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. The cited section does not exist; s. 497.458(1) relates to trust funds for preneed contracts for funeral services or burial services.

Section 122. Paragraphs (g) and (h) of subsection (3) of section 499.029, Florida Statutes, are amended to read:

499.029 Cancer Drug Donation Program.—

(3) As used in this section:

(g) "Health care clinic" means a health care clinic licensed under part X ~~XIII~~ of chapter 400.

(h) "Hospice" means a corporation licensed under part IV ~~VI~~ of chapter 400.

Reviser's note.—Amended to conform to the redesignation of part XIII of chapter 400 as part X and part VI as part IV incident to the transfer of former parts III, V, and VII to new chapter 429 by ch. 2006-197, Laws of Florida.

Section 123. Subsection (3) of section 500.511, Florida Statutes, is amended to read:

500.511 Fees; enforcement; preemption.—

(3) PREEMPTION OF AUTHORITY TO REGULATE.—Regulation of bottled water plants, water vending machines, water vending machine operators, and packaged ice plants is preempted by the state. No county or municipality may adopt or enforce any ordinance that regulates the licensure or operation of bottled water plants, water vending machines, or packaged ice plants, unless it is determined that unique conditions exist within the county which require the county to regulate such entities in order to protect the public health. This subsection does not prohibit a county or municipality from requiring a business ~~an occupational license~~ tax pursuant to chapter 205.

Reviser's note.—Amended to conform to the redesignation of occupational license taxes as business taxes in chapter 205 by ch. 2006-152, Laws of Florida.

Section 124. Subsection (1) of section 501.016, Florida Statutes, is amended to read:

501.016 Health studios; security requirements.—Each health studio that sells contracts for health studio services shall meet the following requirements:

(1) Each health studio shall maintain for each separate business location a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be $50,000, and the bond, when required, shall be obtained before a business tax receipt ~~an occupational license~~ may be issued under chapter 205. Upon issuance of a business tax receipt ~~an occupational license~~, the licensing authority shall immediately notify the department of such issuance in a manner established by the department by rule. The bond shall be in favor of the state for the benefit of any person injured as a result of a violation of ss. 501.012-501.019. The aggregate

liability of the surety to all persons for all breaches of the conditions of the bonds provided herein shall in no event exceed the amount of the bond. The original surety bond required by this section shall be filed with the department.

Reviser's note.—Amended to conform to the redesignation of occupational licenses as business tax receipts in chapter 205 by ch. 2006-152, Laws of Florida.

Section 125. Paragraph (b) of subsection (3) of section 501.143, Florida Statutes, is amended to read:

501.143 Dance Studio Act.—

(3) REGISTRATION OF BALLROOM DANCE STUDIOS.—

(b) Any person applying for or renewing a local business tax receipt ~~occupational license~~ to engage in business as a ballroom dance studio must exhibit an active registration certificate from the department before the local business tax receipt ~~occupational license~~ may be issued or reissued under chapter 205.

Reviser's note.—Amended to conform to the redesignation of occupational licenses as business tax receipts in chapter 205 by ch. 2006-152, Laws of Florida.

Section 126. Subsection (9) 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.—

(9) Upon a declaration of a state of emergency by the Governor, in order to protect the health, safety, and welfare of residents, any person who offers goods and services for sale to the public during the duration of the emergency and who does not possess a business tax receipt ~~an occupational license~~ under s. 205.032 or s. 205.042 commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. During a declared emergency, this subsection does not apply to religious, charitable, fraternal, civic, educational, or social organizations. During a declared emergency and when there is an allegation of price gouging against the person, failure to possess a license constitutes reasonable cause to detain the person, provided that the detention shall only be made in a reasonable manner and only for a reasonable period of time sufficient for an inquiry into the circumstances surrounding the failure to possess a license.

Reviser's note.—Amended to conform to the redesignation of occupational licenses as business tax receipts in chapter 205 by ch. 2006-152, Laws of Florida.

Section 127. Paragraph (c) of subsection (4) of section 509.233, Florida Statutes, is amended to read:

509.233 Public food service establishment requirements; local exemption for dogs in designated outdoor portions; pilot program.—

(4) LIMITATIONS ON EXEMPTION; PERMIT REQUIREMENTS.—

(c) In order to protect the health, safety, and general welfare of the public, the local exemption ordinance shall include such regulations and limitations as deemed necessary by the participating local government and shall include, but not be limited to, the following requirements:

1. All public food service establishment employees shall wash their hands promptly after touching, petting, or otherwise handling dogs. Employees shall be prohibited from touching, petting, or otherwise handling dogs while serving food or beverages or handling tableware or before entering other parts of the public food service establishment.

2. Patrons in a designated outdoor area shall be advised that they should wash their hands before eating. Waterless hand sanitizer shall be provided at all tables in the designated outdoor area.

3. Employees and patrons shall be instructed that they shall not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products, or any other items involved in food service operations.

4. Patrons shall keep their dogs on a leash at all times and shall keep their dogs under reasonable control.

5. Dogs shall not be allowed on chairs, tables, or other furnishings.

6. All table and chair surfaces shall be cleaned and sanitized with an approved product between seating of patrons. Spilled food and drink shall be removed from the floor or ground between seating of patrons.

7. Accidents involving dog waste shall be cleaned immediately and the area sanitized with an approved product. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area.

8. A sign or signs reminding employees of the applicable rules shall be posted on premises in a manner and place as determined by the local permitting authority.

9. A sign or signs reminding patrons of the applicable rules shall be posted on premises in a manner and place as determined by the local permitting authority.

10. A sign or signs shall be posted in a manner and place as determined by the local permitting authority that places the public on notice that the designated outdoor area is available for the use of patrons and patrons' dogs.

11. Dogs shall not be permitted to travel through indoor or nondesignated outdoor portions of the public food service establishment, and ingress and egress to the designated outdoor portions of the public food service establishment must not require entrance into or passage through any indoor area of the food establishment.

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

Section 128. Subsection (9) of section 516.05, Florida Statutes, is amended to read:

516.05 License.—

(9) A licensee who ~~that~~ is the subject of a voluntary or involuntary bankruptcy filing must report such filing to the office within 7 business days after the filing date.

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

Section 129. Section 551.101, Florida Statutes, is amended to read:

551.101 Slot machine gaming authorized.—Any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 may possess slot machines and conduct slot machine gaming at the location where the pari-mutuel permitholder is authorized to conduct pari-mutuel wagering activities pursuant to such permitholder's valid pari-mutuel permit provided that a majority of voters in a countywide referendum have approved slot machines at such facility in the respective county. Notwithstanding any other provision of law, it is not a crime for a person to participate in slot machine gaming at a pari-mutuel facility licensed to possess slot machines and conduct slot machine gaming or to participate in slot machine gaming described in this chapter.

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

Section 130. Section 559.939, Florida Statutes, is amended to read:

559.939 State preemption.—No municipality or county or other political subdivision of this state shall have authority to levy or collect any registration fee or tax, as a regulatory measure, or to require the registration or bonding in any manner of any seller of travel who is registered or complies with all applicable provisions of this part, unless that authority is provided for by special or general act of the Legislature. Any ordinance, resolution, or regulation of any municipality or county or other political subdivision of this state which is in conflict with any provision of this part is preempted by this part. The provisions of this section do not apply to any local business ~~occupational~~ tax levied pursuant to chapter 205.

Reviser's note.—Amended to conform to the redesignation of local occupational taxes as local business taxes in chapter 205 by ch. 2006-152, Laws of Florida.

Section 131. Subsection (3) of section 607.0130, Florida Statutes, is amended to read:

607.0130 Powers of Department of State.—

(3) The Department of State may, based upon its findings hereunder or as provided in s. 213.053(15) ~~215.053(15)~~, bring an action in circuit court to collect any penalties, fees, or taxes determined to be due and owing the state and to compel any filing, qualification, or registration required by law. In connection with such proceeding the department may, without prior approval by the court, file a lis pendens against any property owned by the corporation and may further certify any findings to the Department of Legal Affairs for the initiation of any action permitted pursuant to s. 607.0505 which the Department of Legal Affairs may deem appropriate.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 215.053(15) does not exist; section 213.053(15) provides for recovery of fees and penalties due and owing the state.

Section 132. Subsection (1) and paragraph (a) of subsection (2) of section 607.193, Florida Statutes, are amended to read:

607.193 Supplemental corporate fee.—

(1) In addition to any other taxes imposed by law, an annual supplemental corporate fee of $88.75 is imposed on each business entity that is authorized to transact business in this state and is required to file an annual report with the Department of State under s. 607.1622, s. 608.4511 ~~608.452~~, or s. 620.1210.

(2)(a) The business entity shall remit the supplemental corporate fee to the Department of State at the time it files the annual report required by s. 607.1622, s. 608.4511 ~~608.452~~, or s. 620.1210.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 608.4511 references the annual report for the Department of State, and s. 608.452 references fees.

Section 133. Subsection (5) of section 620.2113, Florida Statutes, is amended to read:

620.2113 Appraisal rights; definitions.—The following definitions apply to this section and ss. 620.2114-620.2124:

(5) "Interest" means interest from the effective date of the appraisal event to which the limited partner objects until the date of payment, at the rate of interest described in s. 620.1107(2) ~~620.107(2)~~, determined as of the effective date of the appraisal event.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 620.107 was repealed by s. 25, ch. 2005-267, Laws of Florida, and did not reference interest rates; s. 620.1107(2) does relate to interest rates.

Section 134. Paragraph (c) of subsection (2) of section 620.2118, Florida Statutes, is amended to read:

620.2118 Appraisal notice and form.—

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

(c) Be accompanied by:

1. Financial statements of the limited partnership that issued the limited partner interests to be appraised, consisting of a balance sheet as of the end of the fiscal year ending not more than 15 months prior to the date of the limited partnership's appraisal notice, an income statement for that year, a cash flow statement for that year, and the latest available interim financial statements, if any.

2. A copy of ss. 620.2113-620.2124 ~~620.2213-620.2224~~.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Sections 620.2213-620.2224 do not exist. Limited partner appraisals are referenced in ss. 620.2113-620.2124.

Section 135. Subsection (3) of section 620.8911, Florida Statutes, is amended to read:

620.8911 Definitions.—As used in this section and ss. 620.8912-620.8923:

(3) "Converted organization" means the organization into which a converting organization converts pursuant to ss. 620.8912-620.8915 ~~620.8902-620.8905~~.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Sections 620.8902-620.8905 were repealed by s. 25, ch. 2005-267, Laws of Florida. Sections 620.8912-620.8915 were created by s. 22, ch. 2005-267, and cover conversion organizations.

Section 136. Paragraph (c) of subsection (1) of section 624.5105, Florida Statutes, is amended to read:

624.5105 Community contribution tax credit; authorization; limitations; eligibility and application requirements; administration; definitions; expiration.—

(1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.—

(c) The total amount of tax credit which may be granted for all programs approved under this section and ss. 212.08(5)(p) ~~212.08(5)(q)~~ and 220.183 is $10.5 million annually for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) and $3.5 million annually for all other projects.

Reviser's note.—Amended to conform to the repeal of former s. 212.08(5)(p) by s. 2, ch. 2006-2, Laws of Florida, and the subsequent redesignation of paragraphs.

Section 137. Paragraph (a) of subsection (1) of section 626.022, Florida Statutes, is amended to read:

626.022 Scope of part.—

(1) This part applies as to insurance agents, service representatives, adjusters, and insurance agencies; as to any and all kinds of insurance; and as to stock insurers, mutual insurers, reciprocal insurers, and all other types of insurers, except that:

(a) It does not apply as to reinsurance, except that ss. 626.011-626.022 ~~626.011-626.031~~, ss. 626.112-626.181 ~~626.102-626.181~~, ss. 626.191-626.211, ss. 626.291-626.301, s. 626.331, ss. 626.342-626.521, ss. 626.541-626.591, and ss. 626.601-626.711 shall apply as to reinsurance intermediaries as defined in s. 626.7492.

Reviser's note.—Amended to conform to the repeal of ss. 626.031, 626.102, and others in the cited range of sections by s. 72, ch. 2002-206, Laws of Florida.

Section 138. Subsection (4) of section 626.171, Florida Statutes, is amended to read:

626.171 Application for license as an agent, customer representative, adjuster, service representative, managing general agent, or reinsurance intermediary.—

(4) An applicant for a license as an agent, customer representative, adjuster, service representative, managing general agent, or reinsurance intermediary must submit a set of the individual applicant's fingerprints, or, if the applicant is not an individual, ~~by~~ a set of the fingerprints of the sole proprietor, majority owner, partners, officers, and directors, to the department and must pay the fingerprint processing fee set forth in s. 624.501. Fingerprints shall be used to investigate the applicant's qualifications pursuant to s. 626.201. The fingerprints shall be taken by a law enforcement agency, designated examination center, or other department-approved entity. The department shall require all designated examination centers to have fingerprinting equipment and to take fingerprints from any applicant or prospective applicant who pays the applicable fee. The department may not approve an application for licensure as an agent, customer service representative, adjuster, service representative, managing general agent, or reinsurance intermediary if fingerprints have not been submitted.

Reviser's note.—Amended to confirm the editorial deletion of the word "by" preceding the word "a" to improve clarity and facilitate correct interpretation.

Section 139. Paragraph (j) of subsection (1) of section 626.935, Florida Statutes, is amended to read:

626.935 Suspension, revocation, or refusal of surplus lines agent's license.—

(1) The department shall deny an application for, suspend, revoke, or refuse to renew the appointment of a surplus lines agent and all other licenses and appointments held by the licensee under this code, upon any of the following grounds:

(j) For any other applicable cause for which the license of a general lines agent could be suspended, revoked, or refused under s. 626.611 or s. 626.621 ~~616.621~~.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 616.621 does not exist. Section 626.621 references grounds for discretionary refusal, suspension, or revocation of an agent's license.

Section 140. Paragraph (g) of subsection (3) of section 626.9912, Florida Statutes, is amended to read:

626.9912 Viatical settlement provider license required; application for license.—

(3) In the application, the applicant must provide all of the following:

(g) A general description of the method the viatical settlement provider will use in determining life expectancies, including a description of the applicant's intended receipt of life expectancies ~~the applicant's intended receipt of life expectancies~~, the applicant's intended use of life expectancy providers, and the written plan or plans of policies and procedures used to determine life expectancies.

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

Section 141. Paragraph (b) of subsection (2) and paragraphs (c), (d), (n), and (v) of subsection (6) of section 627.351, Florida Statutes, as amended by section 21 of chapter 2007-1, Laws of Florida, are amended to read:

627.351 Insurance risk apportionment plans.—

(2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

(b) The department shall require all insurers holding a certificate of authority to transact property insurance on a direct basis in this state, other than joint underwriting associations and other entities formed pursuant to this section, to provide windstorm coverage to applicants from areas determined to be eligible pursuant to paragraph (c) who in good faith are entitled to, but are unable to procure, such coverage through ordinary means; or it shall adopt a reasonable plan or plans for the equitable apportionment or sharing among such insurers of windstorm coverage, which may include formation of an association for this purpose. As used in this subsection, the term "property insurance" means insurance on real or personal property, as defined in s. 624.604, including insurance for fire, industrial fire, allied lines, farmowners multiperil, homeowners' multiperil, commercial multiperil, and mobile homes, and including liability coverages on all such

insurance, but excluding inland marine as defined in s. 624.607(3) and excluding vehicle insurance as defined in s. 624.605(1)(a) other than insurance on mobile homes used as permanent dwellings. The department shall adopt rules that provide a formula for the recovery and repayment of any deferred assessments.

1. For the purpose of this section, properties eligible for such windstorm coverage are defined as dwellings, buildings, and other structures, including mobile homes which are used as dwellings and which are tied down in compliance with mobile home tie-down requirements prescribed by the Department of Highway Safety and Motor Vehicles pursuant to s. 320.8325, and the contents of all such properties. An applicant or policyholder is eligible for coverage only if an offer of coverage cannot be obtained by or for the applicant or policyholder from an admitted insurer at approved rates.

2.a.(I) All insurers required to be members of such association shall participate in its writings, expenses, and losses. Surplus of the association shall be retained for the payment of claims and shall not be distributed to the member insurers. Such participation by member insurers shall be in the proportion that the net direct premiums of each member insurer written for property insurance in this state during the preceding calendar year bear to the aggregate net direct premiums for property insurance of all member insurers, as reduced by any credits for voluntary writings, in this state during the preceding calendar year. For the purposes of this subsection, the term "net direct premiums" means direct written premiums for property insurance, reduced by premium for liability coverage and for the following if included in allied lines: rain and hail on growing crops; livestock; association direct premiums booked; National Flood Insurance Program direct premiums; and similar deductions specifically authorized by the plan of operation and approved by the department. A member's participation shall begin on the first day of the calendar year following the year in which it is issued a certificate of authority to transact property insurance in the state and shall terminate 1 year after the end of the calendar year during which it no longer holds a certificate of authority to transact property insurance in the state. The commissioner, after review of annual statements, other reports, and any other statistics that the commissioner deems necessary, shall certify to the association the aggregate direct premiums written for property insurance in this state by all member insurers.

(II) Effective July 1, 2002, the association shall operate subject to the supervision and approval of a board of governors who are the same individuals that have been appointed by the Treasurer to serve on the board of governors of the Citizens Property Insurance Corporation.

(III) The plan of operation shall provide a formula whereby a company voluntarily providing windstorm coverage in affected areas will be relieved wholly or partially from apportionment of a regular assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II).

(IV) A company which is a member of a group of companies under common management may elect to have its credits applied on a group basis, and any company or group may elect to have its credits applied to any other company or group.

(V) There shall be no credits or relief from apportionment to a company for emergency assessments collected from its policyholders under sub-sub-subparagraph d.(III).

(VI) The plan of operation may also provide for the award of credits, for a period not to exceed 3 years, from a regular assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II) as an incentive for taking policies out of the Residential Property and Casualty Joint Underwriting Association. In order to qualify for the exemption under this sub-sub-subparagraph, the take-out plan must provide that at least 40 percent of the policies removed from the Residential Property and Casualty Joint Underwriting Association cover risks located in Dade, Broward, and Palm Beach Counties or at least 30 percent of the policies so removed cover risks located in Dade, Broward, and Palm Beach Counties and an additional 50 percent of the policies so removed cover risks located in other coastal counties, and must also provide that no more than 15 percent of the policies so removed may exclude windstorm coverage. With the approval of the department, the association may waive these geographic criteria for a take-out plan that removes at least the lesser of 100,000 Residential Property and Casualty Joint Underwriting Association policies or 15 percent of the total number of Residential Property and Casualty Joint Underwriting Association policies, provided the governing board of the Residential Property and Casualty Joint Underwriting Association certifies that the take-out plan will materially reduce the Residential Property and Casualty Joint Underwriting Association's 100-year probable maximum loss from hurricanes. With the approval of the department, the board may extend such credits for an additional year if the insurer guarantees an additional year of renewability for all policies removed from the Residential Property and Casualty Joint Underwriting Association, or for 2 additional years if the insurer guarantees 2 additional years of renewability for all policies removed from the Residential Property and Casualty Joint Underwriting Association.

b. Assessments to pay deficits in the association under this subparagraph shall be included as an appropriate factor in the making of rates as provided in s. 627.3512.

c. The Legislature finds that the potential for unlimited deficit assessments under this subparagraph may induce insurers to attempt to reduce their writings in the voluntary market, and that such actions would worsen the availability problems that the association was created to remedy. It is the intent of the Legislature that insurers remain fully responsible for paying regular assessments and collecting emergency assessments for any deficits of the association; however, it is also the intent of the Legislature to provide a means by which assessment liabilities may be amortized over a period of years.

d.(I) When the deficit incurred in a particular calendar year is 10 percent or less of the aggregate statewide direct written premium for property insurance for the prior calendar year for all member insurers, the association shall levy an assessment on member insurers in an amount equal to the deficit.

(II) When the deficit incurred in a particular calendar year exceeds 10 percent of the aggregate statewide direct written premium for property insurance for the prior calendar year for all member insurers, the association shall levy an assessment on member insurers in an amount equal to the greater of 10 percent of the deficit or 10 percent of the aggregate statewide direct written premium for property insurance for the prior calendar year for member insurers. Any remaining deficit shall be recovered through emergency assessments under sub-sub-subparagraph (III).

(III) Upon a determination by the board of directors that a deficit exceeds the amount that will be recovered through regular assessments on member insurers, pursuant to sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the board shall levy, after verification by the department, emergency assessments to be collected by member insurers and by underwriting associations created pursuant to this section which write property insurance, upon issuance or renewal of property insurance policies other than National Flood Insurance policies in the year or years following levy of the regular assessments. The amount of the emergency assessment collected in a particular year shall be a uniform percentage of that year's direct written premium for property insurance for all member insurers and underwriting associations, excluding National Flood Insurance policy premiums, as annually determined by the board and verified by the department. The department shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. Notwithstanding any other provision of law, each member insurer and each underwriting association created pursuant to this section shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. The emergency assessments so collected shall be transferred directly to the association on a periodic basis as determined by the association. The aggregate amount of emergency assessments levied under this sub-sub-subparagraph in any calendar year may not exceed the greater of 10 percent of the amount needed to cover the original deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing of the original deficit, or 10 percent of the aggregate statewide direct written premium for property insurance written by member insurers and underwriting associations for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit. The board may pledge the proceeds of the emergency assessments under this sub-sub-subparagraph as the source of revenue for bonds, to retire any other debt incurred as a result of the deficit or events giving rise to the deficit, or in any other way that the board determines will efficiently recover the deficit. The emergency assessments under this sub-sub-subparagraph shall continue as long as any bonds issued or other indebtedness incurred with respect to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the document governing such bonds or other indebtedness. Emergency assessments collected under this sub-sub-subparagraph are not part of an insurer's rates, are not premium, and are not subject to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium.

(IV) Each member insurer's share of the total regular assessments under sub-sub-subparagraph (I) or sub-sub-subparagraph (II) shall be in the proportion that the insurer's net direct premium for property insurance in this state, for the year preceding the assessment bears to the aggregate statewide net direct premium for property insurance of all member insurers, as reduced by any credits for voluntary writings for that year.

(V) If regular deficit assessments are made under sub-sub-subparagraph (I) or sub-sub-subparagraph (II), or by the Residential Property and Casualty Joint Underwriting Association under sub-subparagraph (6)(b)3.a. or sub-subparagraph (6)(b)3.b., the association shall levy upon the association's policyholders, as part of its next rate filing, or by a separate rate filing solely for this purpose, a market equalization surcharge in a percentage equal to the total amount of such regular assessments divided by the aggregate statewide direct written premium for property insurance for member insurers for the prior calendar year. Market equalization surcharges under this sub-sub-subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes; however, failure to pay a market equalization surcharge shall be treated as failure to pay premium.

e. The governing body of any unit of local government, any residents of which are insured under the plan, may issue bonds as defined in s. 125.013 or s. 166.101 to fund an assistance program, in conjunction with the association, for the purpose of defraying deficits of the association. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any unit of local government, any residents of which are insured by the association, may provide for the payment of losses, regardless of whether or not the losses occurred within or outside of the territorial jurisdiction of the local government. Revenue bonds may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and the protection and preservation of the economic stability of insurers operating in this state, and declaring it an essential public purpose to permit certain municipalities or counties to issue bonds as will provide relief to claimants and policyholders of the association and insurers responsible for apportionment of plan losses. Any such unit of local government may enter into such contracts with the association and with any other entity created pursuant to this subsection as are necessary to carry out this paragraph. Any bonds issued under this sub-subparagraph shall be payable from and secured by moneys received by the association from assessments under this subparagraph, and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the department shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the

extent that the department determines that the purchase would endanger or impair the solvency of the insurer. The authority granted by this sub-subparagraph is additional to any bonding authority granted by subparagraph 6.

3. The plan shall also provide that any member with a surplus as to policyholders of $20 million or less writing 25 percent or more of its total countrywide property insurance premiums in this state may petition the department, within the first 90 days of each calendar year, to qualify as a limited apportionment company. The apportionment of such a member company in any calendar year for which it is qualified shall not exceed its gross participation, which shall not be affected by the formula for voluntary writings. In no event shall a limited apportionment company be required to participate in any apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds $50 million after payment of available plan funds in any calendar year. However, a limited apportionment company shall collect from its policyholders any emergency assessment imposed under sub-sub-subparagraph 2.d.(III). The plan shall provide that, if the department determines that any regular assessment will result in an impairment of the surplus of a limited apportionment company, the department may direct that all or part of such assessment be deferred. However, there shall be no limitation or deferment of an emergency assessment to be collected from policyholders under sub-sub-subparagraph 2.d.(III).

4. The plan shall provide for the deferment, in whole or in part, of a regular assessment of a member insurer under sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but not for an emergency assessment collected from policyholders under sub-sub-subparagraph 2.d.(III), if, in the opinion of the commissioner, payment of such regular assessment would endanger or impair the solvency of the member insurer. In the event a regular assessment against a member insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

5.a. The plan of operation may include deductibles and rules for classification of risks and rate modifications consistent with the objective of providing and maintaining funds sufficient to pay catastrophe losses.

b. The association may require arbitration of a rate filing under s. 627.062(6). It is the intent of the Legislature that the rates for coverage provided by the association be actuarially sound and not competitive with approved rates charged in the admitted voluntary market such that the association functions as a residual market mechanism to provide insurance only when the insurance cannot be procured in the voluntary market. The plan of operation shall provide a mechanism to assure that, beginning no later than January 1, 1999, the rates charged by the association for each line of business are reflective of approved rates in the voluntary market for hurricane coverage for each line of business in the various areas eligible for association coverage.

c. The association shall provide for windstorm coverage on residential properties in limits up to $10 million for commercial lines residential risks and up to $1 million for personal lines residential risks. If coverage with the association is sought for a residential risk valued in excess of these limits, coverage shall be available to the risk up to the replacement cost or actual cash value of the property, at the option of the insured, if coverage for the risk cannot be located in the authorized market. The association must accept a commercial lines residential risk with limits above $10 million or a personal lines residential risk with limits above $1 million if coverage is not available in the authorized market. The association may write coverage above the limits specified in this subparagraph with or without facultative or other reinsurance coverage, as the association determines appropriate.

d. The plan of operation must provide objective criteria and procedures, approved by the department, to be uniformly applied for all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

(I) Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and

(II) Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the association pursuant to such criteria and procedures must be construed as the private placement of insurance, and the provisions of chapter 120 do not apply.

e. If the risk accepts an offer of coverage through the market assistance program or through a mechanism established by the association, either before the policy is issued by the association or during the first 30 days of coverage by the association, and the producing agent who submitted the application to the association is not currently appointed by the insurer, the insurer shall:

(I) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the association; or

(II) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the association's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-subparagraph (I). Subject to the provisions of s. 627.3517, the policies issued by the association must provide that if the association obtains an offer from an authorized insurer to cover the risk at its approved rates under either a standard policy including wind coverage or, if consistent with the insurer's underwriting

rules as filed with the department, a basic policy including wind coverage, the risk is no longer eligible for coverage through the association. Upon termination of eligibility, the association shall provide written notice to the policyholder and agent of record stating that the association policy must be canceled as of 60 days after the date of the notice because of the offer of coverage from an authorized insurer. Other provisions of the insurance code relating to cancellation and notice of cancellation do not apply to actions under this sub-subparagraph.

f. When the association enters into a contractual agreement for a take-out plan, the producing agent of record of the association policy is entitled to retain any unearned commission on the policy, and the insurer shall:

(I) Pay to the producing agent of record of the association policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the association; or

(II) Offer to allow the producing agent of record of the association policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the association's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-subparagraph (I).

6.a. The plan of operation may authorize the formation of a private nonprofit corporation, a private nonprofit unincorporated association, a partnership, a trust, a limited liability company, or a nonprofit mutual company which may be empowered, among other things, to borrow money by issuing bonds or by incurring other indebtedness and to accumulate reserves or funds to be used for the payment of insured catastrophe losses. The plan may authorize all actions necessary to facilitate the issuance of bonds, including the pledging of assessments or other revenues.

b. Any entity created under this subsection, or any entity formed for the purposes of this subsection, may sue and be sued, may borrow money; issue bonds, notes, or debt instruments; pledge or sell assessments, market equalization surcharges and other surcharges, rights, premiums, contractual rights, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, and other assets as security for such bonds, notes, or debt instruments; enter into any contracts or agreements necessary or proper to accomplish such borrowings; and take other actions necessary to carry out the purposes of this subsection. The association may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (6)(p)2. ~~(6)(g)2.~~, in the absence of a hurricane or other weather-related event, upon a determination by the association subject to approval by the department that such action would enable it to efficiently meet the financial obligations of the association and that such financings are reasonably necessary to effectuate the requirements of this subsection. Any such entity may accumulate reserves and retain surpluses as of the end of any association year to provide for the

payment of losses incurred by the association during that year or any future year. The association shall incorporate and continue the plan of operation and articles of agreement in effect on the effective date of chapter 76-96, Laws of Florida, to the extent that it is not inconsistent with chapter 76-96, and as subsequently modified consistent with chapter 76-96. The board of directors and officers currently serving shall continue to serve until their successors are duly qualified as provided under the plan. The assets and obligations of the plan in effect immediately prior to the effective date of chapter 76-96 shall be construed to be the assets and obligations of the successor plan created herein.

c. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness issued or incurred by the association or any other entity created under this subsection.

7. On such coverage, an agent's remuneration shall be that amount of money payable to the agent by the terms of his or her contract with the company with which the business is placed. However, no commission will be paid on that portion of the premium which is in excess of the standard premium of that company.

8. Subject to approval by the department, the association may establish different eligibility requirements and operational procedures for any line or type of coverage for any specified eligible area or portion of an eligible area if the board determines that such changes to the eligibility requirements and operational procedures are justified due to the voluntary market being sufficiently stable and competitive in such area or for such line or type of coverage and that consumers who, in good faith, are unable to obtain insurance through the voluntary market through ordinary methods would continue to have access to coverage from the association. When coverage is sought in connection with a real property transfer, such requirements and procedures shall not provide for an effective date of coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender.

9. Notwithstanding any other provision of law:

a. The pledge or sale of, the lien upon, and the security interest in any rights, revenues, or other assets of the association created or purported to be created pursuant to any financing documents to secure any bonds or other indebtedness of the association shall be and remain valid and enforceable, notwithstanding the commencement of and during the continuation of, and after, any rehabilitation, insolvency, liquidation, bankruptcy, receivership, conservatorship, reorganization, or similar proceeding against the association under the laws of this state or any other applicable laws.

b. No such proceeding shall relieve the association of its obligation, or otherwise affect its ability to perform its obligation, to continue to collect, or levy and collect, assessments, market equalization or other surcharges,

projected recoveries from the Florida Hurricane Catastrophe Fund, reinsurance recoverables, or any other rights, revenues, or other assets of the association pledged.

c. Each such pledge or sale of, lien upon, and security interest in, including the priority of such pledge, lien, or security interest, any such assessments, emergency assessments, market equalization or renewal surcharges, projected recoveries from the Florida Hurricane Catastrophe Fund, reinsurance recoverables, or other rights, revenues, or other assets which are collected, or levied and collected, after the commencement of and during the pendency of or after any such proceeding shall continue unaffected by such proceeding.

d. As used in this subsection, the term "financing documents" means any agreement, instrument, or other document now existing or hereafter created evidencing any bonds or other indebtedness of the association or pursuant to which any such bonds or other indebtedness has been or may be issued and pursuant to which any rights, revenues, or other assets of the association are pledged or sold to secure the repayment of such bonds or indebtedness, together with the payment of interest on such bonds or such indebtedness, or the payment of any other obligation of the association related to such bonds or indebtedness.

e. Any such pledge or sale of assessments, revenues, contract rights or other rights or assets of the association shall constitute a lien and security interest, or sale, as the case may be, that is immediately effective and attaches to such assessments, revenues, contract, or other rights or assets, whether or not imposed or collected at the time the pledge or sale is made. Any such pledge or sale is effective, valid, binding, and enforceable against the association or other entity making such pledge or sale, and valid and binding against and superior to any competing claims or obligations owed to any other person or entity, including policyholders in this state, asserting rights in any such assessments, revenues, contract, or other rights or assets to the extent set forth in and in accordance with the terms of the pledge or sale contained in the applicable financing documents, whether or not any such person or entity has notice of such pledge or sale and without the need for any physical delivery, recordation, filing, or other action.

f. There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer or its agents or employees, agents or employees of the association, members of the board of directors of the association, or the department or its representatives, for any action taken by them in the performance of their duties or responsibilities under this subsection. Such immunity does not apply to actions for breach of any contract or agreement pertaining to insurance, or any willful tort.

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(c) The plan of operation of the corporation:

1. Must provide for adoption of residential property and casualty insurance policy forms and commercial residential and nonresidential property

insurance forms, which forms must be approved by the office prior to use. The corporation shall adopt the following policy forms:

a. Standard personal lines policy forms that are comprehensive multiperil policies providing full coverage of a residential property equivalent to the coverage provided in the private insurance market under an HO-3, HO-4, or HO-6 policy.

b. Basic personal lines policy forms that are policies similar to an HO-8 policy or a dwelling fire policy that provide coverage meeting the requirements of the secondary mortgage market, but which coverage is more limited than the coverage under a standard policy.

c. Commercial lines residential and nonresidential policy forms that are generally similar to the basic perils of full coverage obtainable for commercial residential structures and commercial nonresidential structures in the admitted voluntary market.

d. Personal lines and commercial lines residential property insurance forms that cover the peril of wind only. The forms are applicable only to residential properties located in areas eligible for coverage under the high-risk account referred to in sub-subparagraph (b)2.a.

e. Commercial lines nonresidential property insurance forms that cover the peril of wind only. The forms are applicable only to nonresidential properties located in areas eligible for coverage under the high-risk account referred to in sub-subparagraph (b)2.a.

f. The corporation may adopt variations of the policy forms listed in sub-subparagraphs a.-e. that contain more restrictive coverage.

2.a. Must provide that the corporation adopt a program in which the corporation and authorized insurers enter into quota share primary insurance agreements for hurricane coverage, as defined in s. 627.4025(2)(a), for eligible risks, and adopt property insurance forms for eligible risks which cover the peril of wind only. As used in this subsection, the term:

(I) "Quota share primary insurance" means an arrangement in which the primary hurricane coverage of an eligible risk is provided in specified percentages by the corporation and an authorized insurer. The corporation and authorized insurer are each solely responsible for a specified percentage of hurricane coverage of an eligible risk as set forth in a quota share primary insurance agreement between the corporation and an authorized insurer and the insurance contract. The responsibility of the corporation or authorized insurer to pay its specified percentage of hurricane losses of an eligible risk, as set forth in the quota share primary insurance agreement, may not be altered by the inability of the other party to the agreement to pay its specified percentage of hurricane losses. Eligible risks that are provided hurricane coverage through a quota share primary insurance arrangement must be provided policy forms that set forth the obligations of the corporation and authorized insurer under the arrangement, clearly specify the percentages of quota share primary insurance provided by the corporation and authorized insurer, and conspicuously and clearly state that neither the

authorized insurer nor the corporation may be held responsible beyond its specified percentage of coverage of hurricane losses.

(II) "Eligible risks" means personal lines residential and commercial lines residential risks that meet the underwriting criteria of the corporation and are located in areas that were eligible for coverage by the Florida Windstorm Underwriting Association on January 1, 2002.

b. The corporation may enter into quota share primary insurance agreements with authorized insurers at corporation coverage levels of 90 percent and 50 percent.

c. If the corporation determines that additional coverage levels are necessary to maximize participation in quota share primary insurance agreements by authorized insurers, the corporation may establish additional coverage levels. However, the corporation's quota share primary insurance coverage level may not exceed 90 percent.

d. Any quota share primary insurance agreement entered into between an authorized insurer and the corporation must provide for a uniform specified percentage of coverage of hurricane losses, by county or territory as set forth by the corporation board, for all eligible risks of the authorized insurer covered under the quota share primary insurance agreement.

e. Any quota share primary insurance agreement entered into between an authorized insurer and the corporation is subject to review and approval by the office. However, such agreement shall be authorized only as to insurance contracts entered into between an authorized insurer and an insured who is already insured by the corporation for wind coverage.

f. For all eligible risks covered under quota share primary insurance agreements, the exposure and coverage levels for both the corporation and authorized insurers shall be reported by the corporation to the Florida Hurricane Catastrophe Fund. For all policies of eligible risks covered under quota share primary insurance agreements, the corporation and the authorized insurer shall maintain complete and accurate records for the purpose of exposure and loss reimbursement audits as required by Florida Hurricane Catastrophe Fund rules. The corporation and the authorized insurer shall each maintain duplicate copies of policy declaration pages and supporting claims documents.

g. The corporation board shall establish in its plan of operation standards for quota share agreements which ensure that there is no discriminatory application among insurers as to the terms of quota share agreements, pricing of quota share agreements, incentive provisions if any, and consideration paid for servicing policies or adjusting claims.

h. The quota share primary insurance agreement between the corporation and an authorized insurer must set forth the specific terms under which coverage is provided, including, but not limited to, the sale and servicing of policies issued under the agreement by the insurance agent of the authorized insurer producing the business, the reporting of information concerning eligible risks, the payment of premium to the corporation, and arrangements

for the adjustment and payment of hurricane claims incurred on eligible risks by the claims adjuster and personnel of the authorized insurer. Entering into a quota sharing insurance agreement between the corporation and an authorized insurer shall be voluntary and at the discretion of the authorized insurer.

3. May provide that the corporation may employ or otherwise contract with individuals or other entities to provide administrative or professional services that may be appropriate to effectuate the plan. The corporation shall have the power to borrow funds, by issuing bonds or by incurring other indebtedness, and shall have other powers reasonably necessary to effectuate the requirements of this subsection, including, without limitation, the power to issue bonds and incur other indebtedness in order to refinance outstanding bonds or other indebtedness. The corporation may, but is not required to, seek judicial validation of its bonds or other indebtedness under chapter 75. The corporation may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (p)2. ~~(g)2.~~, in the absence of a hurricane or other weather-related event, upon a determination by the corporation, subject to approval by the office, that such action would enable it to efficiently meet the financial obligations of the corporation and that such financings are reasonably necessary to effectuate the requirements of this subsection. The corporation is authorized to take all actions needed to facilitate tax-free status for any such bonds or indebtedness, including formation of trusts or other affiliated entities. The corporation shall have the authority to pledge assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, market equalization and other surcharges, and other funds available to the corporation as security for bonds or other indebtedness. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness.

4.a. Must require that the corporation operate subject to the supervision and approval of a board of governors consisting of eight individuals who are residents of this state, from different geographical areas of this state. The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives shall each appoint two members of the board. At least one of the two members appointed by each appointing officer must have demonstrated expertise in insurance. The Chief Financial Officer shall designate one of the appointees as chair. All board members serve at the pleasure of the appointing officer. All members of the board of governors are subject to removal at will by the officers who appointed them. All board members, including the chair, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan. Any board vacancy shall be filled for the unexpired term by the appointing officer. The Chief Financial Officer shall appoint a technical advisory group to provide information and advice to the board of governors in connection with the board's duties under this subsection. The executive director and senior managers of the corporation shall be engaged by the board and serve at the pleasure of the board. Any executive director appointed on or after July 1,

2006, is subject to confirmation by the Senate. The executive director is responsible for employing other staff as the corporation may require, subject to review and concurrence by the board.

b. The board shall create a Market Accountability Advisory Committee to assist the corporation in developing awareness of its rates and its customer and agent service levels in relationship to the voluntary market insurers writing similar coverage. The members of the advisory committee shall consist of the following 11 persons, one of whom must be elected chair by the members of the committee: four representatives, one appointed by the Florida Association of Insurance Agents, one by the Florida Association of Insurance and Financial Advisors, one by the Professional Insurance Agents of Florida, and one by the Latin American Association of Insurance Agencies; three representatives appointed by the insurers with the three highest voluntary market share of residential property insurance business in the state; one representative from the Office of Insurance Regulation; one consumer appointed by the board who is insured by the corporation at the time of appointment to the committee; one representative appointed by the Florida Association of Realtors; and one representative appointed by the Florida Bankers Association. All members must serve for 3-year terms and may serve for consecutive terms. The committee shall report to the corporation at each board meeting on insurance market issues which may include rates and rate competition with the voluntary market; service, including policy issuance, claims processing, and general responsiveness to policyholders, applicants, and agents; and matters relating to depopulation.

5. Must provide a procedure for determining the eligibility of a risk for coverage, as follows:

a. Subject to the provisions of s. 627.3517, with respect to personal lines residential risks, if the risk is offered coverage from an authorized insurer at the insurer's approved rate under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the office, a basic policy including wind coverage, for a new application to the corporation for coverage, the risk is not eligible for any policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 25 percent greater than the premium for comparable coverage from the corporation. If the risk is not able to obtain any such offer, the risk is eligible for either a standard policy including wind coverage or a basic policy including wind coverage issued by the corporation; however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk shall be eligible for a basic policy including wind coverage unless rejected under subparagraph 9. ~~8.~~ However, with regard to a policyholder of the corporation, the policyholder remains eligible for coverage from the corporation regardless of any offer of coverage from an authorized insurer or surplus lines insurer. The corporation shall determine the type of policy to be provided on the basis of objective standards specified in the underwriting manual and based on generally accepted underwriting practices.

(I) If the risk accepts an offer of coverage through the market assistance plan or an offer of coverage through a mechanism established by the corporation before a policy is issued to the risk by the corporation or during the first

30 days of coverage by the corporation, and the producing agent who submitted the application to the plan or to the corporation is not currently appointed by the insurer, the insurer shall:

(A) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

(II) When the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on the policy, and the insurer shall:

(A) Pay to the producing agent of record of the corporation policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the corporation policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

b. With respect to commercial lines residential risks, for a new application to the corporation for coverage, if the risk is offered coverage under a policy including wind coverage from an authorized insurer at its approved rate, the risk is not eligible for any policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 25 percent greater than the premium for comparable coverage from the corporation. If the risk is not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the corporation. However, with regard to a policyholder of the corporation, the policyholder remains eligible for coverage from the corporation regardless of any offer of coverage from an authorized insurer or surplus lines insurer.

(I) If the risk accepts an offer of coverage through the market assistance plan or an offer of coverage through a mechanism established by the corporation before a policy is issued to the risk by the corporation or during the first 30 days of coverage by the corporation, and the producing agent who submit-

ted the application to the plan or the corporation is not currently appointed by the insurer, the insurer shall:

(A) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

(II) When the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on the policy, and the insurer shall:

(A) Pay to the producing agent of record of the corporation policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the corporation policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

6. Must provide by July 1, 2007, that an application for coverage for a new policy is subject to a waiting period of 10 days before coverage is effective, during which time the corporation shall make such application available for review by general lines agents and authorized property and casualty insurers. The board shall approve an exception that allows for coverage to be effective before the end of the 10-day waiting period, for coverage issued in conjunction with a real estate closing. The board may approve such other exceptions as the board determines are necessary to prevent lapses in coverage.

7. Must include rules for classifications of risks and rates therefor.

8. Must provide that if premium and investment income for an account attributable to a particular calendar year are in excess of projected losses and expenses for the account attributable to that year, such excess shall be held in surplus in the account. Such surplus shall be available to defray deficits in that account as to future years and shall be used for that purpose

prior to assessing assessable insurers and assessable insureds as to any calendar year.

9. Must provide objective criteria and procedures to be uniformly applied for all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

a. Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and

b. Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the corporation shall be construed as the private placement of insurance, and the provisions of chapter 120 shall not apply.

10. Must provide that the corporation shall make its best efforts to procure catastrophe reinsurance at reasonable rates, to cover its projected 100-year probable maximum loss as determined by the board of governors.

11. Must provide that in the event of regular deficit assessments under sub-subparagraph (b)3.a. or sub-subparagraph (b)3.b., in the personal lines account, the commercial lines residential account, or the high-risk account, the corporation shall levy upon corporation policyholders in its next rate filing, or by a separate rate filing solely for this purpose, a Citizens policyholder surcharge arising from a regular assessment in such account in a percentage equal to the total amount of such regular assessments divided by the aggregate statewide direct written premium for subject lines of business for the prior calendar year. For purposes of calculating the Citizens policyholder surcharge to be levied under this subparagraph, the total amount of the regular assessment to which this surcharge is related shall be determined as set forth in subparagraph (b)3., without deducting the estimated Citizens policyholder surcharge. Citizens policyholder surcharges under this subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes; however, failure to pay a market equalization surcharge shall be treated as failure to pay premium.

12. The policies issued by the corporation must provide that, if the corporation or the market assistance plan obtains an offer from an authorized insurer to cover the risk at its approved rates, the risk is no longer eligible for renewal through the corporation, except as otherwise provided in this subsection.

13. Corporation policies and applications must include a notice that the corporation policy could, under this section, be replaced with a policy issued by an authorized insurer that does not provide coverage identical to the coverage provided by the corporation. The notice shall also specify that acceptance of corporation coverage creates a conclusive presumption that the applicant or policyholder is aware of this potential.

14. May establish, subject to approval by the office, different eligibility requirements and operational procedures for any line or type of coverage for any specified county or area if the board determines that such changes to the eligibility requirements and operational procedures are justified due to the voluntary market being sufficiently stable and competitive in such area or for such line or type of coverage and that consumers who, in good faith, are unable to obtain insurance through the voluntary market through ordinary methods would continue to have access to coverage from the corporation. When coverage is sought in connection with a real property transfer, such requirements and procedures shall not provide for an effective date of coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender.

15. Must provide that, with respect to the high-risk account, any assessable insurer with a surplus as to policyholders of $25 million or less writing 25 percent or more of its total countrywide property insurance premiums in this state may petition the office, within the first 90 days of each calendar year, to qualify as a limited apportionment company. A regular assessment levied by the corporation on a limited apportionment company for a deficit incurred by the corporation for the high-risk account in 2006 or thereafter may be paid to the corporation on a monthly basis as the assessments are collected by the limited apportionment company from its insureds pursuant to s. 627.3512, but the regular assessment must be paid in full within 12 months after being levied by the corporation. A limited apportionment company shall collect from its policyholders any emergency assessment imposed under sub-subparagraph (b)3.d. The plan shall provide that, if the office determines that any regular assessment will result in an impairment of the surplus of a limited apportionment company, the office may direct that all or part of such assessment be deferred as provided in subparagraph (p)4. ~~(g)4.~~ However, there shall be no limitation or deferment of an emergency assessment to be collected from policyholders under sub-subparagraph (b)3.d.

16. Must provide that the corporation appoint as its licensed agents only those agents who also hold an appointment as defined in s. 626.015(3) with an insurer who at the time of the agent's initial appointment by the corporation is authorized to write and is actually writing personal lines residential property coverage, commercial residential property coverage, or commercial nonresidential property coverage within the state.

17. Must provide, by July 1, 2007, a premium payment plan option to its policyholders which allows for quarterly and semiannual payment of premiums.

18. Must provide, effective June 1, 2007, that the corporation contract with each insurer providing the non-wind coverage for risks insured by the corporation in the high-risk account, requiring that the insurer provide claims adjusting services for the wind coverage provided by the corporation for such risks. An insurer is required to enter into this contract as a condition of providing non-wind coverage for a risk that is insured by the corporation in the high-risk account unless the board finds, after a hearing, that the insurer is not capable of providing adjusting services at an acceptable level

of quality to corporation policyholders. The terms and conditions of such contracts must be substantially the same as the contracts that the corporation executed with insurers under the "adjust-your-own" program in 2006, except as may be mutually agreed to by the parties and except for such changes that the board determines are necessary to ensure that claims are adjusted appropriately. The corporation shall provide a process for neutral arbitration of any dispute between the corporation and the insurer regarding the terms of the contract. The corporation shall review and monitor the performance of insurers under these contracts.

19. Must limit coverage on mobile homes or manufactured homes built prior to 1994 to actual cash value of the dwelling rather than replacement costs of the dwelling.

20. May provide such limits of coverage as the board determines, consistent with the requirements of this subsection.

21. May require commercial property to meet specified hurricane mitigation construction features as a condition of eligibility for coverage.

(d)1. All prospective employees for senior management positions, as defined by the plan of operation, are subject to background checks as a prerequisite for employment. The office shall conduct background checks on such prospective employees pursuant to ss. 624.34, 624.404(3), and 628.261.

2. On or before July 1 of each year, employees of the corporation are required to sign and submit a statement attesting that they do not have a conflict of interest, as defined in part III of chapter 112. As a condition of employment, all prospective employees are required to sign and submit to the corporation a conflict-of-interest statement.

3. Senior managers and members of the board of governors are subject to the provisions of part III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial interests, pursuant to s. 112.3145. Senior managers and board members are also required to file such disclosures with the Office of Insurance Regulation. The executive director of the corporation or his or her designee shall notify each newly appointed and existing appointed member of the board of governors and senior managers of their duty to comply with the reporting requirements of part III of chapter 112. At least quarterly, the executive director or his or her designee shall submit to the Commission on Ethics a list of names of the senior managers and members of the board of governors <u>who</u> ~~that~~ are subject to the public disclosure requirements under s. 112.3145.

4. Notwithstanding s. 112.3148 or s. 112.3149, or any other provision of law, an employee or board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, that has a contractual relationship with the corporation or who is under consideration for a contract. An employee or board member <u>who</u> ~~that~~ fails to comply with this subparagraph is subject to penalties provided under ss. 112.317 and 112.3173.

5. Any senior manager of the corporation who is employed on or after January 1, 2007, regardless of the date of hire, who subsequently retires or terminates employment is prohibited from representing another person or entity before the corporation for 2 years after retirement or termination of employment from the corporation.

6. Any employee of the corporation who is employed on or after January 1, 2007, regardless of the date of hire, who subsequently retires or terminates employment is prohibited from having any employment or contractual relationship for 2 years with an insurer that has received a take-out bonus from the corporation.

(n) If coverage in an account is deactivated pursuant to paragraph (o)~~(f)~~, coverage through the corporation shall be reactivated by order of the office only under one of the following circumstances:

1. If the market assistance plan receives a minimum of 100 applications for coverage within a 3-month period, or 200 applications for coverage within a 1-year period or less for residential coverage, unless the market assistance plan provides a quotation from admitted carriers at their filed rates for at least 90 percent of such applicants. Any market assistance plan application that is rejected because an individual risk is so hazardous as to be uninsurable using the criteria specified in subparagraph (c)9. ~~(c)8.~~ shall not be included in the minimum percentage calculation provided herein. In the event that there is a legal or administrative challenge to a determination by the office that the conditions of this subparagraph have been met for eligibility for coverage in the corporation, any eligible risk may obtain coverage during the pendency of such challenge.

2. In response to a state of emergency declared by the Governor under s. 252.36, the office may activate coverage by order for the period of the emergency upon a finding by the office that the emergency significantly affects the availability of residential property insurance.

(v) Notwithstanding any other provision of law:

1. The pledge or sale of, the lien upon, and the security interest in any rights, revenues, or other assets of the corporation created or purported to be created pursuant to any financing documents to secure any bonds or other indebtedness of the corporation shall be and remain valid and enforceable, notwithstanding the commencement of and during the continuation of, and after, any rehabilitation, insolvency, liquidation, bankruptcy, receivership, conservatorship, reorganization, or similar proceeding against the corporation under the laws of this state.

2. No such proceeding shall relieve the corporation of its obligation, or otherwise affect its ability to perform its obligation, to continue to collect, or levy and collect, assessments, market equalization or other surcharges under subparagraph (c)11. ~~(c)10.~~, or any other rights, revenues, or other assets of the corporation pledged pursuant to any financing documents.

3. Each such pledge or sale of, lien upon, and security interest in, including the priority of such pledge, lien, or security interest, any such assess-

ments, market equalization or other surcharges, or other rights, revenues, or other assets which are collected, or levied and collected, after the commencement of and during the pendency of, or after, any such proceeding shall continue unaffected by such proceeding. As used in this subsection, the term "financing documents" means any agreement or agreements, instrument or instruments, or other document or documents now existing or hereafter created evidencing any bonds or other indebtedness of the corporation or pursuant to which any such bonds or other indebtedness has been or may be issued and pursuant to which any rights, revenues, or other assets of the corporation are pledged or sold to secure the repayment of such bonds or indebtedness, together with the payment of interest on such bonds or such indebtedness, or the payment of any other obligation or financial product, as defined in the plan of operation of the corporation related to such bonds or indebtedness.

4. Any such pledge or sale of assessments, revenues, contract rights, or other rights or assets of the corporation shall constitute a lien and security interest, or sale, as the case may be, that is immediately effective and attaches to such assessments, revenues, or contract rights or other rights or assets, whether or not imposed or collected at the time the pledge or sale is made. Any such pledge or sale is effective, valid, binding, and enforceable against the corporation or other entity making such pledge or sale, and valid and binding against and superior to any competing claims or obligations owed to any other person or entity, including policyholders in this state, asserting rights in any such assessments, revenues, or contract rights or other rights or assets to the extent set forth in and in accordance with the terms of the pledge or sale contained in the applicable financing documents, whether or not any such person or entity has notice of such pledge or sale and without the need for any physical delivery, recordation, filing, or other action.

5. As long as the corporation has any bonds outstanding, the corporation may not file a voluntary petition under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, and a public officer or any organization, entity, or other person may not authorize the corporation to be or become a debtor under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, during any such period.

6. If ordered by a court of competent jurisdiction, the corporation may assume policies or otherwise provide coverage for policyholders of an insurer placed in liquidation under chapter 631, under such forms, rates, terms, and conditions as the corporation deems appropriate, subject to approval by the office.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 15, ch. 2006-12, Laws of Florida, redesignated subunits within s. 627.351(6). Subparagraph (6)(g)2. was redesignated as subparagraph (6)(p)2. Subparagraph (6)(g)4. was redesignated as subparagraph (6)(p)4. Subparagraph (6)(c)8. was redesignated as subparagraph (6)(c)9. Subparagraph (6)(c)10. was redesignated as subparagraph (6)(c)11. Paragraph (6)(f) was redesignated as paragraph (6)(o). Paragraph (6)(d) is also

amended to confirm the editorial substitution of the word "who" for the word "that" to conform to context.

Section 142. Subsection (1) of section 627.6617, Florida Statutes, is amended to read:

627.6617 Coverage for home health care services.—

(1) Any group health insurance policy providing coverage on an expense-incurred basis shall provide coverage for home health care by a home health care agency licensed pursuant to part III ~~IV~~ of chapter 400. Such coverage may be limited to home health care under a plan of treatment prescribed by a licensed physician. Services may be performed by a registered graduate nurse, a licensed practical nurse, a physical therapist, a speech therapist, an occupational therapist, or a home health aide. Provisions for utilization review may be imposed, provided that similar provisions apply to all other types of health care services.

Reviser's note.—Amended to conform to the redesignation of former part III of chapter 400 as part I of chapter 429 by s. 2, ch. 2006-197, Laws of Florida, and the redesignation of part IV of chapter 400 as part III of chapter 400 to conform.

Section 143. Subsections (2) and (10) of section 633.0245, Florida Statutes, are amended to read:

633.0245 State Fire Marshal Nursing Home Fire Protection Loan Guarantee Program.—

(2) The State Fire Marshal may enter into limited loan guarantee agreements with one or more financial institutions qualified as public depositories in this state. Such agreements shall provide a limited guarantee by the State of Florida covering no more than 50 percent of the principal sum loaned by such financial institution to an eligible nursing home, as defined in subsection (10), for the sole purpose of the initial installation at such nursing home of a fire protection system, as defined in s. 633.021(9) ~~633.021(8)~~, approved by the State Fire Marshal as being in compliance with the provisions of s. 633.022 and rules adopted thereunder.

(10) For purposes of this section, "eligible nursing home" means a nursing home facility that provides nursing services as defined in chapter 464, is licensed under part II of chapter 400, and is certified by the Agency for Health Care Administration to lack an installed fire protection system as defined in s. 633.021(9) ~~633.021(8)~~.

Reviser's note.—Amended to conform to the addition of a new s. 633.021(8) and the redesignation of following subunits by s. 8, ch. 2006-65, Laws of Florida.

Section 144. Paragraph (d) of subsection (2) and subsection (3) of section 679.4031, Florida Statutes, are amended to read:

679.4031 Agreement not to assert defenses against assignee.—

(2) Except as otherwise provided in this section, an agreement between an account debtor and an assignor not to assert against an assignee any claim or defense that the account debtor may have against the assignor is enforceable by an assignee that takes an assignment:

(d) Without notice of a defense or claim in recoupment of the type that may be asserted against a person entitled to enforce a negotiable instrument under s. 673.3051(1) ~~673.3031(1)~~.

(3) Subsection (2) does not apply to defenses of a type that may be asserted against a holder in due course of a negotiable instrument under s. 673.3051(2) ~~673.3031(2)~~.

Reviser's note.—Amended to conform to context. Section 673.3031 relates to value and consideration; s. 673.3051 relates to defenses and claims in recoupment.

Section 145. Paragraph (b) of subsection (3) of section 679.707, Florida Statutes, is amended to read:

679.707 Amendment or pre-effective date financing statement.—

(3) Except as otherwise provided in subsection (4), if the law of this state governs perfection of a security interest, the information in a pre-effective date financing statement may be amended after this act takes effect only if:

(b) An amendment is filed in the office specified in s. 679.5011 concurrently with, or after the filing in that office of, an initial financing statement that satisfies s. 679.706(3) ~~671.706(3)~~; or

Reviser's note.—Amended to correct an erroneous reference. Section 671.706 does not exist; s. 679.706(3) relates to initial financing statements.

Section 146. Paragraph (b) of subsection (6) of section 727.109, Florida Statutes, is amended to read:

727.109 Power of the court.—The court shall have power to:

(6) Hear and determine any of the following actions brought by the assignee, which she or he is hereby empowered to maintain:

(b) Determine the validity, priority, and extent of a lien or other interests in assets of the estate, or to subordinate or avoid an unperfected security interest pursuant to the assignee's rights as a lien creditor under s. 679.3171 ~~679.301~~;

Reviser's note.—Amended to conform to the repeal of s. 679.301 and the enactment of similar provisions in s. 679.3171 by s. 3, ch. 2001-198, Laws of Florida.

Section 147. Effective July 1, 2007, paragraph (g) of subsection (2) of section 736.1001, Florida Statutes, is amended to read:

736.1001 Remedies for breach of trust.—

(2) To remedy a breach of trust that has occurred or may occur, the court may:

(g) Remove the trustee as provided in s. 736.0706 ~~736.706~~;

Reviser's note.—Amended to correct an erroneous reference. Section 736.706 does not exist; s. 736.0706 relates to removal of the trustee.

Section 148. Effective July 1, 2007, section 736.1209, Florida Statutes, is amended to read:

736.1209 Election to come under this part.—With the consent of that organization or organizations, a trustee of a trust for the benefit of a public charitable organization or organizations may come under s. 736.1208(5) ~~736.0838(5)~~ by filing with the state attorney an election, accompanied by the proof of required consent. Thereafter the trust shall be subject to s. 736.1208(5).

Reviser's note.—Amended to correct an erroneous reference. Section 736.0838 does not exist; s. 736.1208(5) relates to release of a power to specify a specific donee by specifying a public charitable organization or organizations.

Section 149. Subsection (3) of section 743.09, Florida Statutes, is amended to read:

743.09 Removal of disabilities of minors; artistic or creative services; professional sports contracts; procedure for court approval; appointment of a guardian ad litem.—

(3) At any time after the filing of the petition, the court, if it deems it advisable, may appoint a guardian ad litem, pursuant to s. 744.3025 ~~744.301~~, to represent the interests of the minor. The court shall appoint a guardian ad litem as to any contract where the parent or guardian will receive remuneration or financial gain from the performance of the contract or has any other conflict of interest with the minor as defined by s. 744.446. The court, in determining whether a guardian ad litem should be appointed, may consider the following criteria:

(a) The length of time the exclusive services of the minor are required.

(b) Whether the gross earnings of the minor under the contract are either contingent or unknown.

(c) Whether the gross earnings of the minor under the contract are in excess of $15,000.

Reviser's note.—Amended to correct an erroneous reference. Section 744.301(4), relating to appointment of guardians ad litem, was repealed by s. 3, ch. 2006-178, Laws of Florida, and s. 4 of that law created s. 744.3025, providing for appointment of guardians ad litem.

Section 150. Paragraph (a) of subsection (4) and paragraph (b) of subsection (10) of section 775.21, Florida Statutes, are amended to read:

775.21 The Florida Sexual Predators Act.—

(4) SEXUAL PREDATOR CRITERIA.—

(a) For a current offense committed on or after October 1, 1993, upon conviction, an offender shall be designated as a "sexual predator" under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

1. The felony is:

a. A capital, life, or first-degree felony violation, or any attempt thereof, of s. 787.01 or s. 787.02, where the victim is a minor and the defendant is not the victim's parent, or of chapter 794, s. 800.04, or s. 847.0145, or a violation of a similar law of another jurisdiction; or

b. Any felony violation, or any attempt thereof, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 796.035; s. 800.04; s. 825.1025(2)(b); s. 827.071; s. 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or a violation of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent; s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or a violation of a similar law of another jurisdiction;

2. The offender has not received a pardon for any felony or similar law of another jurisdiction that is necessary for the operation of this paragraph; and

3. A conviction of a felony or similar law of another jurisdiction necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(10) PENALTIES.—

(b) A sexual predator who has been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation, or attempted violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent; s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 827.071; s. 847.0133; s. 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or a violation of a similar law of another jurisdiction when the victim of the offense was a minor, and who works, whether for compensation or as a volunteer, at any business, school, day care center, park, playground, or other place where children regularly congregate, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Reviser's note.—Amended to conform to the redesignation of s. 985.4045 as s. 985.701 by s. 98, ch. 2006-120, Laws of Florida; the references to s. 985.4045(1) were added to s. 775.21 by s. 1, ch. 2006-200, Laws of Florida.

Section 151. Subsection (1) of section 794.056, Florida Statutes, is amended to read:

794.056 Rape Crisis Program Trust Fund.—

(1) The Rape Crisis Program Trust Fund is created within the Department of Health for the purpose of providing funds for rape crisis centers in this state. Trust fund moneys shall be used exclusively for the purpose of providing services for victims of sexual assault. Funds credited to the trust fund consist of those funds collected as an additional court assessment in each case in which a defendant pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, an offense defined in s. 784.011, s. 784.021, s. 784.03, s. 784.041, s. 784.045, s. 784.048, s. 784.07, s. 784.08, s. 784.081, s. 784.082, s. 784.083, s. 784.085 ~~785.085~~, or s. 794.011. Funds credited to the trust fund also shall include revenues provided by law, moneys appropriated by the Legislature, and grants from public or private entities.

Reviser's note.—Amended to correct an erroneous reference. Section 785.085 does not exist; s. 784.085 provides for the offense of battery of a child by throwing, tossing, projecting, or expelling certain fluids or materials.

Section 152. Section 817.36, Florida Statutes, is amended to read:

817.36 Resale of tickets.—Whoever shall offer for resale or resell any ticket may only charge $1 above the admission price charged therefor by ~~of~~ the original ticket seller of said ticket for the following transactions:

(1) Passage or accommodations on any common carrier in this state; however, the provisions of this subsection shall not apply to travel agencies that have an established place of business in this state, which place of business is required to pay state, county, and city occupational license taxes.

(2) Multiday or multievent tickets to a park or entertainment complex or to a concert, entertainment event, permanent exhibition, or recreational activity within such a park or complex, including an entertainment/resort complex as defined in s. 561.01(18).

(3) Any tickets, other than the tickets in subsections (1) and (2), that are resold or offered through an Internet website, unless such website is authorized by the original ticket seller or makes and posts the following guarantees and disclosures through Internet web pages on which are visibly posted, or links to web pages on which are posted, text to which a prospective purchaser is directed before completion of the resale transaction:

(a) The website operator guarantees a full refund of the amount paid for the ticket including any servicing, handling, or processing fees, if such fees are not disclosed, when:

1. The ticketed event is canceled;

2. The purchaser is denied admission to the ticketed event, unless such denial is due to the action or omission of the purchaser;

3. The ticket is not delivered to the purchaser in the manner requested and pursuant to any delivery guarantees made by the reseller and such failure results in the purchaser's inability to attend the ticketed event.

(b) The website operator discloses that it is not the issuer, original seller, or reseller of the ticket or items and does not control the pricing of the ticket or items, which may be resold for more than their original value.

(4) Nothing in this section authorizes any individual or entity to sell or purchase tickets at any price on property where an event is being held without the prior express written consent of the owner of the property.

(5) Any sales tax due for resales under this section shall be remitted to the Department of Revenue in accordance with s. 212.04.

Reviser's note.—Amended to confirm the editorial substitution of the word "by" for the word "of" to improve clarity.

Section 153. Subsection (6) of section 827.06, Florida Statutes, is amended to read:

827.06 Nonsupport of dependents.—

(6) It is the intent of the Legislature for the state attorneys, the Florida Prosecuting Attorneys Association, and the Department of Revenue to work collaboratively to identify strategies that allow the criminal penalties provided for in this section to be pursued in all appropriate cases, including, but not limited to, strategies that would assist the state attorneys in obtaining additional resources from available federal Title IV-D funds to initiate prosecution pursuant to this section. ~~The Florida Prosecuting Attorneys Association and the Department of Revenue shall submit a joint report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2005, that includes identified strategies and recommendations for implementing such strategies.~~

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

Section 154. Paragraph (d) of subsection (2) of section 847.001, Florida Statutes, is amended to read:

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

(2) "Adult entertainment establishment" means the following terms as defined:

(d) "Unlicensed massage establishment" means any business or enterprise that offers, sells, or provides, or that holds itself out as offering, selling, or providing, massages that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. The term "unlicensed massage establishment" does not include an establishment licensed under s. 480.043 ~~480.43~~ which routinely provides medical services by

state-licensed health care practitioners and massage therapists licensed under s. 480.041.

Reviser's note.—Amended to correct an erroneous reference. Section 480.43 does not exist; s. 480.043 relates to licensure of massage establishments.

Section 155. Subsection (1) of section 849.09, Florida Statutes, is amended to read:

849.09 Lottery prohibited; exceptions.—

(1) It is unlawful for any person in this state to:

(a) Set up, promote, or conduct any lottery for money or for anything of value;

(b) Dispose of any money or other property of any kind whatsoever by means of any lottery;

(c) Conduct any lottery drawing for the distribution of a prize or prizes by lot or chance, or advertise any such lottery scheme or device in any newspaper or by circulars, posters, pamphlets, radio, telegraph, telephone, or otherwise;

(d) Aid or assist in the setting up, promoting, or conducting of any lottery or lottery drawing, whether by writing, printing, or in any other manner whatsoever, or be interested in or connected in any way with any lottery or lottery drawing;

(e) Attempt to operate, conduct, or advertise any lottery scheme or device;

(f) Have in her or his possession any lottery wheel, implement, or device whatsoever for conducting any lottery or scheme for the disposal by lot or chance of anything of value;

(g) Sell, offer for sale, or transmit, in person or by mail or in any other manner whatsoever, any lottery ticket, coupon, or share, or any share in or fractional part of any lottery ticket, coupon, or share, whether such ticket, coupon, or share represents an interest in a live lottery not yet played or whether it represents, or has represented, an interest in a lottery that has already been played;

(h) Have in her or his possession any lottery ticket, or any evidence of any share or right in any lottery ticket, or in any lottery scheme or device, whether such ticket or evidence of share or right represents an interest in a live lottery not yet played or whether it represents, or has represented, an interest in a lottery that has already been played;

(i) Aid or assist in the sale, disposal, or procurement of any lottery ticket, coupon, or share, or any right to any drawing in a lottery; ~~or~~

(j) Have in her or his possession any lottery advertisement, circular, poster, or pamphlet, or any list or schedule of any lottery prizes, gifts, or drawings; or.

(k) Have in her or his possession any so-called "run down sheets," tally sheets, or other papers, records, instruments, or paraphernalia designed for use, either directly or indirectly, in, or in connection with, the violation of the laws of this state prohibiting lotteries and gambling.

Provided, that nothing in this section shall prohibit participation in any nationally advertised contest, drawing, game or puzzle of skill or chance for a prize or prizes unless it can be construed as a lottery under this section; and, provided further, that this exemption for national contests shall not apply to any such contest based upon the outcome or results of any horse-race, harness race, dograce, or jai alai game.

Reviser's note.—Amended to conform to standard style relating to listing of elements in a series.

Section 156. Subsection (2) of section 849.15, Florida Statutes, is amended to read:

849.15 Manufacture, sale, possession, etc., of coin-operated devices prohibited.—

(2) Pursuant to section 2 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," approved January 2, 1951, being ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177, the State of Florida, acting by and through the duly elected and qualified members of its Legislature, does hereby in this section, and in accordance with and in compliance with the provisions of section 2 of such chapter of Congress, declare and proclaim that any county of the State of Florida within which slot machine gaming is authorized pursuant to chapter 551 is exempt from the provisions of section 2 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," designated as 15 U.S.C. ss. 1171-1177, approved January 2, 1951. All shipments of gaming devices, including slot machines, into any county of this state within which slot machine gaming is authorized pursuant to chapter 551 and the registering, recording, and labeling of which have been duly performed by the manufacturer or distributor thereof in accordance with sections 3 and 4 of that chapter of the Congress of the United States entitled "An act to prohibit transportation of gaming devices in interstate and foreign commerce," approved January 2, 1951, being ch. 1194, 64 Stat. 1134, and also designated as 15 U.S.C. ss. 1171-1177, shall be deemed legal shipments thereof into any such county provided the destination of such shipments is an eligible facility as defined in s. 551.102.

Reviser's note.—Amended to confirm the editorial insertion of the word "in" following the word "defined" to improve clarity.

Section 157. Paragraph (c) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(c) LEVEL 3
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066(6) (b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
327.35(2)(b)	3rd	Felony BUI.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
370.12(1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
370.12(1)(e)6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.

Florida Statute	Felony Degree	Description
400.903(3)	3rd	Operating a clinic without a license or filing false license application or other required information.
~~440.105(3)(b)~~	~~3rd~~	~~Receipt of fee or consideration without approval by judge of compensation claims.~~
440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/ misleading information.
624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than $20,000.
626.902(1) (a) & (b)	3rd	Representing an unauthorized insurer.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
796.05(1)	3rd	Live on earnings of a prostitute.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
812.0145(2)(c)	3rd	Theft from person 65 years of age or older; $300 or more but less than $10,000.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.
817.234(8) (b)-(c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.

Florida Statute	Felony Degree	Description
817.234(11)(a)	3rd	Insurance fraud; property value less than $20,000.
817.236	3rd	Filing a false motor vehicle insurance application.
817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
817.413(2)	3rd	Sale of used goods as new.
817.505(4)	3rd	Patient brokering.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
843.19	3rd	Injure, disable, or kill police dog or horse.
860.15(3)	3rd	Overcharging for repairs and parts.
870.01(2)	3rd	Riot; inciting or encouraging.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of university.
893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of public housing facility.
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.

Florida Statute	Felony Degree	Description
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
944.47 (1)(a)1.-2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).

Reviser's note.—Amended to delete a reference to a nonfelony violation. Offenses under s. 440.105(3) are first degree misdemeanors, not felonies.

Section 158. Subsection (2) of section 933.07, Florida Statutes, is amended to read:

933.07 Issuance of search warrants.—

(2) Notwithstanding any other provisions of this chapter, the Department of Agriculture and Consumer Services, based on grounds specified in

s. 933.02(4)(d) ~~933.02(4)(d) or (e)~~, may obtain a search warrant authorized by this chapter for an area in size up to and including the full extent of the county in which the search warrant is issued. The judge issuing such search warrant shall conduct a court proceeding prior to the issuance of such search warrant upon reasonable notice and shall receive, hear, and determine any objections by property owners to the issuance of such search warrant. Such search warrant may be served by employees or authorized contractors of the Department of Agriculture and Consumer Services. Such search warrant may be made returnable at any time up to 6 months from the date of issuance.

Reviser's note.—Amended to conform to the repeal of s. 933.02(4)(e) by s. 7, ch. 2006-45, Laws of Florida.

Section 159. Paragraph (a) of subsection (1) of section 943.0435, Florida Statutes, is amended to read:

943.0435 Sexual offenders required to register with the department; penalty.—

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

(a) "Sexual offender" means a person who meets the criteria in subparagraph 1., subparagraph 2., or subparagraph 3., as follows:

1.a. Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph; and

b. Has been released on or after October 1, 1997, from the sanction imposed for any conviction of an offense described in sub-subparagraph a. For purposes of sub-subparagraph a., a sanction imposed in this state or in any other jurisdiction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility;

2. Establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender; or

3. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes or similar offense in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subparagraph.

Reviser's note.—Amended to confirm the editorial substitution of a reference to s. 985.701(1) for a reference to s. 985.4045(1) to conform to the redesignation of s. 985.4045 as s. 985.701 by s. 98, ch. 2006-120, Laws of Florida.

Section 160. Paragraph (a) of subsection (1) of section 943.325, Florida Statutes, is amended to read:

943.325 Blood or other biological specimen testing for DNA analysis.—

(1)(a) Any person who is convicted or was previously convicted in this state for any offense or attempted offense enumerated in paragraph (b), and any person who is transferred to this state under Article VII of the Interstate Compact on Juveniles, part XIII ~~V~~ of chapter 985, who has committed or attempted to commit an offense similarly defined by the transferring state, who is either:

1. Still incarcerated, or

2. No longer incarcerated, or has never been incarcerated, yet is within the confines of the legal state boundaries and is on probation, community control, parole, conditional release, control release, or any other type of court-ordered supervision,

shall be required to submit two specimens of blood or other biological specimens approved by the Department of Law Enforcement to a Department of Law Enforcement designated testing facility as directed by the department.

Reviser's note.—Amended to conform to the redesignation of part V of chapter 985 as part XIII of that chapter by s. 1, ch. 2006-120, Laws of Florida.

Section 161. Paragraph (b) of subsection (1) of section 944.606, Florida Statutes, is amended to read:

944.606 Sexual offenders; notification upon release.—

(1) As used in this section:

(b) "Sexual offender" means a person who has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal

offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subsection, when the department has received verified information regarding such conviction; an offender's computerized criminal history record is not, in and of itself, verified information.

Reviser's note.—Amended to confirm the editorial substitution of a reference to s. 985.701(1) for a reference to s. 985.4045(1) to conform to the redesignation of s. 985.4045 as s. 985.701 by s. 98, ch. 2006-120, Laws of Florida.

Section 162. Paragraph (a) of subsection (1) of section 944.607, Florida Statutes, is amended to read:

944.607 Notification to Department of Law Enforcement of information on sexual offenders.—

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

(a) "Sexual offender" means a person who is in the custody or control of, or under the supervision of, the department or is in the custody of a private correctional facility:

1. On or after October 1, 1997, as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1) ~~985.4045(1)~~; or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this paragraph; or

2. Who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard as to whether the person otherwise meets the criteria for registration as a sexual offender.

Reviser's note.—Amended to confirm the editorial substitution of a reference to s. 985.701(1) for a reference to s. 985.4045(1) to conform to the redesignation of s. 985.4045 as s. 985.701 by s. 98, ch. 2006-120, Laws of Florida.

Section 163. Section 947.022, Florida Statutes, is repealed.

Reviser's note.—The referenced section, which provided transition provisions for staggered terms for the Parole Commission, has served its purpose.

Section 164. Subsection (12) of section 984.19, Florida Statutes, is amended to read:

984.19 Medical screening and treatment of child; examination of parent, guardian, or person requesting custody.—

(12) Nothing in this section alters the authority of the department to consent to medical treatment for a child who has been committed to the department pursuant to s. 984.22(3) ~~984.22(3) and (4)~~ and of whom the department has become the legal custodian.

Reviser's note.—Amended to conform to the deletion from s. 984.22(4) of material relating to placement of children in foster care by the Department of Children and Family Services by s. 71, ch. 2006-227, Laws of Florida.

Section 165. Paragraph (k) of subsection (11) of section 985.483, Florida Statutes, is amended to read:

985.483 Intensive residential treatment program for offenders less than 13 years of age.—

(11) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.—

(k) Assessment and treatment records are confidential as described in this paragraph and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

1. The department shall have full access to the assessment and treatment records to ensure coordination of services to the child.

2. The principles of confidentiality of records as provided in s. 985.04 ~~985.045~~ shall apply to the assessment and treatment records of children who are eligible for an intensive residential treatment program for offenders less than 13 years of age.

Reviser's note.—Amended to confirm the editorial substitution of a reference to s. 985.04 for a reference to s. 985.045 to correct an apparent error. Section 985.045 relates to court records; s. 985.04 relates to confidentiality of records.

Section 166. Paragraph (c) of subsection (4) of section 985.565, Florida Statutes, is amended to read:

985.565 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.—

(4) SENTENCING ALTERNATIVES.—

(c) Adult sanctions upon failure of juvenile sanctions.—If a child proves not to be suitable to a commitment program, ~~in a~~ juvenile probation pro-

gram, or treatment program under paragraph (b), the department shall provide the sentencing court with a written report outlining the basis for its objections to the juvenile sanction and shall simultaneously provide a copy of the report to the state attorney and the defense counsel. The department shall schedule a hearing within 30 days. Upon hearing, the court may revoke the previous adjudication, impose an adjudication of guilt, and impose any sentence which it may lawfully impose, giving credit for all time spent by the child in the department. The court may also classify the child as a youthful offender under s. 958.04, if appropriate. For purposes of this paragraph, a child may be found not suitable to a commitment program, community control program, or treatment program under paragraph (b) if the child commits a new violation of law while under juvenile sanctions, if the child commits any other violation of the conditions of juvenile sanctions, or if the child's actions are otherwise determined by the court to demonstrate a failure of juvenile sanctions.

It is the intent of the Legislature that the criteria and guidelines in this subsection are mandatory and that a determination of disposition under this subsection is subject to the right of the child to appellate review under s. 985.534.

Reviser's note.—Amended to confirm the editorial deletion of the words "in a" preceding the word "juvenile" to provide clarity.

Section 167. Paragraph (b) of subsection (2) of section 1001.25, Florida Statutes, is amended to read:

1001.25 Educational television.—

(2) POWERS OF DEPARTMENT.—

(b) The department shall provide through educational television and other electronic media a means of extending educational services to all the state system of public education, except the state universities, which provision by the department is limited by paragraph (c) and by s. 1001.26(1) ~~1006.26(1)~~. The department shall recommend to the State Board of Education rules necessary to provide such services.

Reviser's note.—Amended to correct an erroneous reference. Section 1006.26 does not exist; s. 1001.26(1) creates a public broadcasting system for the state.

Section 168. Subsection (4) of section 1001.73, Florida Statutes, is amended to read:

1001.73 University board empowered to act as trustee.—

(4) Nothing herein shall be construed to authorize a university board of trustees to contract a debt on behalf of, or in any way to obligate, the state; and the satisfaction of any debt or obligation incurred by the university board as trustee under the provisions of this section shall be exclusively from the trust property, mortgaged or encumbered; and nothing herein shall in

any manner affect or relate to the provisions of former ss. 1010.61-1010.619 or s. 1013.78.

Reviser's note.—Amended to conform to the repeal of ss. 1010.61-1010.619 by s. 15, ch. 2006-27, Laws of Florida.

Section 169. Subsection (1) of section 1002.01, Florida Statutes, is amended to read:

1002.01 Definitions.—

(1) A "home education program" means the sequentially progressive instruction of a student directed by his or her parent in order to satisfy the attendance requirements of ss. 1002.41, 1003.01(13) ~~1003.01(4)~~, and 1003.21(1).

Reviser's note.—Amended to correct an erroneous reference. Section 1003.01(4) defines "career education"; s. 1003.01(13) defines "regular school attendance."

Section 170. Paragraph (b) of subsection (4) of section 1002.20, Florida Statutes, is amended to read:

1002.20 K-12 student and parent rights.—Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(4) DISCIPLINE.—

(b) Expulsion.—Public school students and their parents have the right to written notice of a recommendation of expulsion, including the charges against the student and a statement of the right of the student to due process, in accordance with the provisions of s. 1006.08(1) ~~1001.51(8)~~.

Reviser's note.—Amended to correct an erroneous reference. Section 1001.51(8) relates to instructional materials; s. 1006.08(1) contains material relating to a recommendation of expulsion and the student's right to due process.

Section 171. Paragraph (b) of subsection (4) of section 1002.335, Florida Statutes, is amended to read:

1002.335 Florida Schools of Excellence Commission.—

(4) POWERS AND DUTIES.—

(b) The commission shall have the following duties:

1. Review charter school applications and assist in the establishment of Florida Schools of Excellence (FSE) charter schools throughout the state. An FSE charter school shall exist as a public school within the state as a component of the delivery of public education within Florida's K-20 education system.

2. Develop, promote, and disseminate best practices for charter schools and charter school sponsors in order to ensure that high-quality charter schools are developed and incentivized. At a minimum, the best practices shall encourage the development and replication of academically and financially proven charter school programs.

3. Develop, promote, and require high standards of accountability for any school that applies for and is granted a charter under this section.

4. Monitor and annually review the performance of cosponsors approved pursuant to this section and hold the cosponsors accountable for their performance pursuant to the provisions of paragraph (6)(c). The commission shall annually review and evaluate the performance of each cosponsor based upon the financial and administrative support provided to the cosponsor's charter schools and the quality of charter schools approved by the cosponsor, including the academic performance of the students who ~~that~~ attend those schools.

5. Monitor and annually review and evaluate the academic and financial performance of the charter schools it sponsors and hold the schools accountable for their performance pursuant to the provisions of chapter 1008.

6. Report the student enrollment in each of its sponsored charter schools to the district school board of the county in which the school is located.

7. Work with its cosponsors to monitor the financial management of each FSE charter school.

8. Direct charter schools and persons seeking to establish charter schools to sources of private funding and support.

9. Actively seek, with the assistance of the department, supplemental revenue from federal grant funds, institutional grant funds, and philanthropic organizations. The commission may, through the department's Grants and Donations Trust Fund, receive and expend gifts, grants, and donations of any kind from any public or private entity to carry out the purposes of this section.

10. Review and recommend to the Legislature any necessary revisions to statutory requirements regarding the qualification and approval of municipalities, state universities, community colleges, and regional educational consortia as cosponsors for FSE charter schools.

11. Review and recommend to the Legislature any necessary revisions to statutory requirements regarding the standards for accountability and criteria for revocation of approval of cosponsors of FSE charter schools.

12. Act as liaison for cosponsors and FSE charter schools in cooperating with district school boards that may choose to allow charter schools to utilize excess space within district public school facilities.

13. Collaborate with municipalities, state universities, community colleges, and regional educational consortia as cosponsors for FSE charter

schools for the purpose of providing the highest level of public education to low-income, low-performing, gifted, or underserved student populations. Such collaborations shall:

a. Allow state universities and community colleges that cosponsor FSE charter schools to enable students attending a charter school to take college courses and receive high school and college credit for such courses.

b. Be used to determine the feasibility of opening charter schools for students with disabilities, including, but not limited to, charter schools for children with autism that work with and utilize the specialized expertise of the Centers for Autism and Related Disabilities established and operated pursuant to s. 1004.55.

14. Support municipalities when the mayor or chief executive, through resolution passed by the governing body of the municipality, expresses an intent to cosponsor and establish charter schools within the municipal boundaries.

15. Meet the needs of charter schools and school districts by uniformly administering high-quality charter schools, thereby removing administrative burdens from the school districts.

16. Assist FSE charter schools in negotiating and contracting with district school boards that choose to provide certain administrative or transportation services to the charter schools on a contractual basis.

17. Provide training for members of FSE charter school governing bodies within 90 days after approval of the charter school. The training shall include, but not be limited to, best practices on charter school governance, the constitutional and statutory requirements relating to public records and meetings, and the requirements of applicable statutes and State Board of Education rules.

18. Perform all of the duties of sponsors set forth in s. 1002.33(5)(b) and (20).

Reviser's note.—Amended to confirm the editorial substitution of the word "who" for the word "that" to conform to context.

Section 172. Paragraph (g) of subsection (2) of section 1003.51, Florida Statutes, is amended to read:

1003.51 Other public educational services.—

(2) The State Board of Education shall adopt and maintain an administrative rule articulating expectations for effective education programs for youth in Department of Juvenile Justice programs, including, but not limited to, education programs in juvenile justice commitment and detention facilities. The rule shall articulate policies and standards for education programs for youth in Department of Juvenile Justice programs and shall include the following:

(g) Funding requirements, which shall include the requirement that at least 90 percent of the FEFP funds generated by students in Department of Juvenile Justice programs or in an education program for juveniles under s. 985.19 ~~985.223~~ be spent on instructional costs for those students. One hundred percent of the formula-based categorical funds generated by students in Department of Juvenile Justice programs must be spent on appropriate categoricals such as instructional materials and public school technology for those students.

Reviser's note.—Amended to conform to the redesignation of s. 985.223 as s. 985.19 by s. 30, ch. 2006-120, Laws of Florida.

Section 173. Subsection (6) of section 1004.28, Florida Statutes, is amended to read:

1004.28 Direct-support organizations; use of property; board of directors; activities; audit; facilities.—

(6) FACILITIES.—In addition to issuance of indebtedness pursuant to former s. 1010.60(2), each direct-support organization is authorized to enter into agreements to finance, design and construct, lease, lease-purchase, purchase, or operate facilities necessary and desirable to serve the needs and purposes of the university, as determined by the systemwide strategic plan adopted by the State Board of Education. Such agreements are subject to the provisions of s. 1013.171.

Reviser's note.—Amended to conform to the repeal of s. 1010.60 by s. 15, ch. 2006-27, Laws of Florida.

Section 174. Subsection (3) of section 1008.22, Florida Statutes, is reenacted to read:

1008.22 Student assessment program for public schools.—

(3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner shall design and implement a statewide program of educational assessment that provides information for the improvement of the operation and management of the public schools, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs. The commissioner may enter into contracts for the continued administration of the assessment, testing, and evaluation programs authorized and funded by the Legislature. Contracts may be initiated in 1 fiscal year and continue into the next and may be paid from the appropriations of either or both fiscal years. The commissioner is authorized to negotiate for the sale or lease of tests, scoring protocols, test scoring services, and related materials developed pursuant to law. Pursuant to the statewide assessment program, the commissioner shall:

(a) Submit to the State Board of Education a list that specifies student skills and competencies to which the goals for education specified in the state plan apply, including, but not limited to, reading, writing, science, and mathematics. The skills and competencies must include problem-solving and higher-order skills as appropriate and shall be known as the Sunshine

State Standards as defined in s. 1000.21. The commissioner shall select such skills and competencies after receiving recommendations from educators, citizens, and members of the business community. The commissioner shall submit to the State Board of Education revisions to the list of student skills and competencies in order to maintain continuous progress toward improvements in student proficiency.

(b) Develop and implement a uniform system of indicators to describe the performance of public school students and the characteristics of the public school districts and the public schools. These indicators must include, without limitation, information gathered by the comprehensive management information system created pursuant to s. 1008.385 and student achievement information obtained pursuant to this section.

(c) Develop and implement a student achievement testing program known as the Florida Comprehensive Assessment Test (FCAT) as part of the statewide assessment program to measure reading, writing, science, and mathematics. Other content areas may be included as directed by the commissioner. The assessment of reading and mathematics shall be administered annually in grades 3 through 10. The assessment of writing and science shall be administered at least once at the elementary, middle, and high school levels. The commissioner must document the procedures used to ensure that the versions of the FCAT which are taken by students retaking the grade 10 FCAT are equally as challenging and difficult as the tests taken by students in grade 10 which contain performance tasks. The testing program must be designed so that:

1. The tests measure student skills and competencies adopted by the State Board of Education as specified in paragraph (a). The tests must measure and report student proficiency levels of all students assessed in reading, writing, mathematics, and science. The commissioner shall provide for the tests to be developed or obtained, as appropriate, through contracts and project agreements with private vendors, public vendors, public agencies, postsecondary educational institutions, or school districts. The commissioner shall obtain input with respect to the design and implementation of the testing program from state educators, assistive technology experts, and the public.

2. The testing program will include a combination of norm-referenced and criterion-referenced tests and include, to the extent determined by the commissioner, questions that require the student to produce information or perform tasks in such a way that the skills and competencies he or she uses can be measured.

3. Each testing program, whether at the elementary, middle, or high school level, includes a test of writing in which students are required to produce writings that are then scored by appropriate and timely methods.

4. A score is designated for each subject area tested, below which score a student's performance is deemed inadequate. The school districts shall provide appropriate remedial instruction to students who score below these levels.

5. Except as provided in s. 1003.428(8)(b) or s. 1003.43(11)(b), students must earn a passing score on the grade 10 assessment test described in this paragraph or attain concordant scores as described in subsection (9) in reading, writing, and mathematics to qualify for a standard high school diploma. The State Board of Education shall designate a passing score for each part of the grade 10 assessment test. In establishing passing scores, the state board shall consider any possible negative impact of the test on minority students. The State Board of Education shall adopt rules which specify the passing scores for the grade 10 FCAT. Any such rules, which have the effect of raising the required passing scores, shall only apply to students taking the grade 10 FCAT for the first time after such rules are adopted by the State Board of Education.

6. Participation in the testing program is mandatory for all students attending public school, including students served in Department of Juvenile Justice programs, except as otherwise prescribed by the commissioner. If a student does not participate in the statewide assessment, the district must notify the student's parent and provide the parent with information regarding the implications of such nonparticipation. A parent must provide signed consent for a student to receive classroom instructional accommodations that would not be available or permitted on the statewide assessments and must acknowledge in writing that he or she understands the implications of such instructional accommodations. The State Board of Education shall adopt rules, based upon recommendations of the commissioner, for the provision of test accommodations for students in exceptional education programs and for students who have limited English proficiency. Accommodations that negate the validity of a statewide assessment are not allowable in the administration of the FCAT. However, instructional accommodations are allowable in the classroom if included in a student's individual education plan. Students using instructional accommodations in the classroom that are not allowable as accommodations on the FCAT may have the FCAT requirement waived pursuant to the requirements of s. 1003.428(8)(b) or s. 1003.43(11)(b).

7. A student seeking an adult high school diploma must meet the same testing requirements that a regular high school student must meet.

8. District school boards must provide instruction to prepare students to demonstrate proficiency in the skills and competencies necessary for successful grade-to-grade progression and high school graduation. If a student is provided with instructional accommodations in the classroom that are not allowable as accommodations in the statewide assessment program, as described in the test manuals, the district must inform the parent in writing and must provide the parent with information regarding the impact on the student's ability to meet expected proficiency levels in reading, writing, and math. The commissioner shall conduct studies as necessary to verify that the required skills and competencies are part of the district instructional programs.

9. District school boards must provide opportunities for students to demonstrate an acceptable level of performance on an alternative standardized assessment approved by the State Board of Education following enrollment in summer academies.

10. The Department of Education must develop, or select, and implement a common battery of assessment tools that will be used in all juvenile justice programs in the state. These tools must accurately measure the skills and competencies established in the Sunshine State Standards.

11. For students seeking a special diploma pursuant to s. 1003.438, the Department of Education must develop or select and implement an alternate assessment tool that accurately measures the skills and competencies established in the Sunshine State Standards for students with disabilities under s. 1003.438.

The commissioner may, based on collaboration and input from school districts, design and implement student testing programs, for any grade level and subject area, necessary to effectively monitor educational achievement in the state, including the measurement of educational achievement of the Sunshine State Standards for students with disabilities. Development and refinement of assessments shall include universal design principles and accessibility standards that will prevent any unintended obstacles for students with disabilities while ensuring the validity and reliability of the test. These principles should be applicable to all technology platforms and assistive devices available for the assessments. The field testing process and psychometric analyses for the statewide assessment program must include an appropriate percentage of students with disabilities and an evaluation or determination of the effect of test items on such students.

(d) Conduct ongoing research to develop improved methods of assessing student performance, including, without limitation, the use of technology to administer tests, score, or report the results of, the use of electronic transfer of data, the development of work-product assessments, and the development of process assessments.

(e) Conduct ongoing research and analysis of student achievement data, including, without limitation, monitoring trends in student achievement by grade level and overall student achievement, identifying school programs that are successful, and analyzing correlates of school achievement.

(f) Provide technical assistance to school districts in the implementation of state and district testing programs and the use of the data produced pursuant to such programs.

(g) Study the cost and student achievement impact of secondary end-of-course assessments, including web-based and performance formats, and report to the Legislature prior to implementation.

Reviser's note.—Section 40, ch. 2006-74, Laws of Florida, amended paragraphs (3)(c), (e), and (f) and also added a new paragraph (3)(f) but failed to publish existing paragraph (3)(f). Absent affirmative evidence of legislative intent to repeal existing paragraph (3)(f), it is reenacted here to confirm that the omission was not intended.

Section 175. Subsection (4) of section 1008.33, Florida Statutes, is amended to read:

1008.33 Authority to enforce public school improvement.—It is the intent of the Legislature that all public schools be held accountable for students performing at acceptable levels. A system of school improvement and accountability that assesses student performance by school, identifies schools in which students are not making adequate progress toward state standards, institutes appropriate measures for enforcing improvement, and provides rewards and sanctions based on performance shall be the responsibility of the State Board of Education.

(4) The State Board of Education may require the Department of Education or Chief Financial Officer to withhold any transfer of state funds to the school district if, within the timeframe specified in state board action, the school district has failed to comply with the action ordered to improve the district's low-performing schools. Withholding the transfer of funds shall occur only after all other recommended actions for school improvement have failed to improve performance. The State Board of Education may impose the same penalty on any district school board that fails to develop and implement a plan for assistance and intervention for low-performing schools as specified in s. 1001.42(16)(c) ~~1001.42(16)(d)~~.

Reviser's note.—Amended to correct an erroneous reference. The initial version of House Bill 7087, 2006 Regular Session, added a new s. 1001.42(16)(b) and redesignated the remaining paragraphs, as well as updating references to those paragraphs. The final version of the bill as passed, which became ch. 2006-74, Laws of Florida, did not include the new paragraph (16)(b), but the revised reference in the bill at s. 1008.33(4) was not adjusted to conform to that deletion.

Section 176. Subsection (5) of section 1008.345, Florida Statutes, is amended to read:

1008.345 Implementation of state system of school improvement and education accountability.—

(5) The commissioner shall report to the Legislature and recommend changes in state policy necessary to foster school improvement and education accountability. Included in the report shall be a list of the schools, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, for which district school boards have developed assistance and intervention plans and an analysis of the various strategies used by the school boards. School reports shall be distributed pursuant to this subsection and s. 1006.42(16)(e) ~~1001.42(16)(f)~~ and according to rules adopted by the State Board of Education.

Reviser's note.—Amended to correct an erroneous reference. The initial version of House Bill 7087, 2006 Regular Session, added a new s. 1001.42(16)(b) and redesignated the remaining paragraphs, as well as updating references to those paragraphs. The final version of the bill as passed, which became ch. 2006-74, Laws of Florida, did not include the new paragraph (16)(b), but the revised reference in the bill at s. 1008.345(5) was not adjusted to conform to that deletion.

Section 177. Paragraph (f) of subsection (1) of section 1011.62, Florida Statutes, is amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(f) Supplemental academic instruction; categorical fund.—

1. There is created a categorical fund to provide supplemental academic instruction to students in kindergarten through grade 12. This paragraph may be cited as the "Supplemental Academic Instruction Categorical Fund."

2. Categorical funds for supplemental academic instruction shall be allocated annually to each school district in the amount provided in the General Appropriations Act. These funds shall be in addition to the funds appropriated on the basis of FTE student membership in the Florida Education Finance Program and shall be included in the total potential funds of each district. These funds shall be used to provide supplemental academic instruction to students enrolled in the K-12 program. Supplemental instruction strategies may include, but are not limited to: modified curriculum, reading instruction, after-school instruction, tutoring, mentoring, class size reduction, extended school year, intensive skills development in summer school, and other methods for improving student achievement. Supplemental instruction may be provided to a student in any manner and at any time during or beyond the regular 180-day term identified by the school as being the most effective and efficient way to best help that student progress from grade to grade and to graduate.

3. Effective with the 1999-2000 fiscal year, funding on the basis of FTE membership beyond the 180-day regular term shall be provided in the FEFP only for students enrolled in juvenile justice education programs or in education programs for juveniles placed in secure facilities or programs under s. 985.19 ~~985.223~~. Funding for instruction beyond the regular 180-day school year for all other K-12 students shall be provided through the supplemental academic instruction categorical fund and other state, federal, and local fund sources with ample flexibility for schools to provide supplemental instruction to assist students in progressing from grade to grade and graduating.

4. The Florida State University School, as a lab school, is authorized to expend from its FEFP or Lottery Enhancement Trust Fund allocation the cost to the student of remediation in reading, writing, or mathematics for any graduate who requires remediation at a postsecondary educational institution.

5. Beginning in the 1999-2000 school year, dropout prevention programs as defined in ss. 1003.52, 1003.53(1)(a), (b), and (c), and 1003.54 shall be included in group 1 programs under subparagraph (d)3.

Reviser's note.—Amended to confirm the editorial substitution of a reference to s. 985.19 for a reference to s. 985.223 to conform to the redesignation of the section by s. 30, ch. 2006-120, Laws of Florida.

Section 178. Subsection (1) of section 1011.71, Florida Statutes, is amended to read:

1011.71 District school tax.—

(1) If the district school tax is not provided in the General Appropriations Act or the substantive bill implementing the General Appropriations Act, each district school board desiring to participate in the state allocation of funds for current operation as prescribed by s. 1011.62(11) ~~1011.62(10)~~ shall levy on the taxable value for school purposes of the district, exclusive of millage voted under the provisions of s. 9(b) or s. 12, Art. VII of the State Constitution, a millage rate not to exceed the amount certified by the commissioner as the minimum millage rate necessary to provide the district required local effort for the current year, pursuant to s. 1011.62(4)(a)1. In addition to the required local effort millage levy, each district school board may levy a nonvoted current operating discretionary millage. The Legislature shall prescribe annually in the appropriations act the maximum amount of millage a district may levy.

Reviser's note.—Amended to correct an erroneous reference. Section 1011.62(10) relates to quality assurance guarantee; s. 1011.62(11) relates to total allocation of state funds to each district for current operation.

Section 179. Subsection (6) of section 1012.21, Florida Statutes, is amended to read:

1012.21 Department of Education duties; K-12 personnel.—

(6) REPORTING.—The Department of Education shall annually post online links to each school district's collective bargaining contracts and the salary and benefits of the personnel or officers of any educator association which were paid by the school district pursuant to s. 1012.22. ~~The department shall prescribe the computer format for district school boards to use in providing the information.~~

Reviser's note.—Amended to delete language that has served its purpose and was included in House Bill 7087, 2006 Regular Session, in error. The language related to past procedure when the Department of Education was to post the information, not the links to the information as currently referenced.

Section 180. Paragraph (i) of subsection (1) and subsection (3) of section 1012.22, Florida Statutes, are amended to read:

1012.22 Public school personnel; powers and duties of the district school board.—The district school board shall:

(1) Designate positions to be filled, prescribe qualifications for those positions, and provide for the appointment, compensation, promotion, suspension, and dismissal of employees as follows, subject to the requirements of this chapter:

(i) Comprehensive program of staff development.—The district school board shall establish a comprehensive program of staff development that incorporates school improvement plans pursuant to s. 1001.42 and is aligned with principal leadership training pursuant to s. 1012.986 ~~1012.985~~ as a part of the plan.

~~(3) Annually provide to the Department of Education the negotiated collective bargaining contract for the school district and the salary and benefits for the personnel or officers of any educator association which are paid by the school district. The district school board shall report using the computer format prescribed by the department pursuant to s. 1012.21.~~

Reviser's note.—Paragraph (1)(i) is amended to correct an erroneous reference. Section 1012.985 relates to a statewide system for inservice professional development; s. 1012.986 provides for a leadership professional development program for principals. Subsection (3) is deleted to correct an error in House Bill 7087, 2006 Regular Session. Subsection (3) relates to past procedure when the Department of Education was to post the information, not the links to the information as currently referenced.

Section 181. Section 1013.11, Florida Statutes, is amended to read:

1013.11 Postsecondary institutions assessment of physical plant safety.—The president of each postsecondary institution shall conduct or cause to be conducted an annual assessment of physical plant safety. An annual report shall incorporate the findings obtained through such assessment and recommendations for the improvement of safety on each campus. The annual report shall be submitted to the respective governing or licensing board of jurisdiction no later than January 1 of each year. Each board shall compile the individual institutional reports and convey the aggregate institutional reports to the Commissioner of Education. The Commissioner of Education shall convey these reports and the reports required in s. 1006.67 ~~1008.48~~ to the President of the Senate and the Speaker of the House of Representatives no later than March 1 of each year.

Reviser's note.—Amended to correct an erroneous reference. Section 1008.48 never has existed. Prior to the School Code rewrite in 2002, material now in s. 1013.11 was at s. 240.2684. Section 240.2684 referenced reports required in s. 240.2683 regarding campus crime statistics; that material is now located in s. 1006.67.

Section 182. Subsection (1) of section 1013.721, Florida Statutes, is amended to read:

1013.721 A Business-Community (ABC) School Program.—

(1) In order to increase business partnerships in education, to reduce school and classroom overcrowding throughout the state, ~~and~~ to offset the

high costs of educational facilities construction, and to use due diligence and sound business practices in using available educational space, the Legislature intends to encourage the formation of partnerships between business and education by creating A Business-Community (ABC) School Program.

Reviser's note.—Amended to confirm the editorial deletion of the word "and" preceding the word "to" to conform to a standard style relating to listing of elements in a series.

Section 183. This act shall take effect on the 60th day after adjournment sine die of the session of the Legislature in which enacted.

Approved by the Governor April 13, 2007.

Filed in Office Secretary of State April 13, 2007.