CHAPTER 2008-4

Committee Substitute for Senate Bill No. 1678

An act relating to the Florida Statutes; amending ss. 7.11, 7.13, 7.44, 11.904, 11.908, 15.0395, 20.23, 26.021, 26.32, 30.071, 35.05, 39.0132, 92.05, 99.012, 106.023, 106.0706, 112.324, 120.545, 121.051, 121.091, 121.121, 121.4501, 124.01, 125.901, 159.804, 163.06, 163.3182, 163.32465, 163.430, 166.271, 171.071, 171.205, 190.005, 192.0105, 198.13, 200.001, 202.20, 212.08, 215.555, 215.5586, 218.415, 222.25, 250.83, 253.033, 253.034, 257.38, 258.001, 258.11, 258.12, 258.39, 258.397, 286.0111, 288.0655, 288.1223, 288.1254, 288.8175, 288.9015, 288.90151, 288.9551, 288.975, 316.003, 320.0805, 322.34, 323.001, 328.07, 337.0261, 338.231, 339.175, 343.92, 348.243, 364.02, 367.171, 369.255, 370.142, 370.172, 372.09, 373.026, 373.073, 373.1501, 373.1502, 373.1961, 373.414, 373.4211, 373.4592, 373.4595, 373.470, 373.472, 376.308, 377.42, 381.0273, 381.0404, 381.92, 383.412, 390.012, 390.014, 390.018, 393.23, 395.402, 400.063, 400.0712, 400.506, 400.995, 403.031, 403.201, 403.707, 403.890, 403.8911, 403.973, 408.032, 409.166, 409.1677, 409.25661, 413.271, 420.5095, 420.9076, 429.35, 429.907, 440.3851, 445.004, 446.43, 468.832, 468.8419, 468.842, 477.0135, 481.215, 481.313, 487.048, 489.115, 489.127, 489.517, 489.531, 497.172, 497.271, 497.466, 500.148, 501.022, 501.976, 553.73, 553.791, 610.104, 617.0802, 624.316, 627.0628, 627.06292, 627.311, 627.351, 627.3511, 627.4133, 627.701, 627.7261, 627.736, 628.461, 628.4615, 633.01, 633.025, 660.417, 736.0802, 741.3165, 744.1076, 812.1725, 817.625, 832.062, 921.0022, 932.701, 940.05, 943.0314, 943.32, 943.35, 947.06, 1001.11, 1001.215, 1001.395, 1002.35, 1002.39, 1002.72, 1003.4156, 1003.428, 1004.43, 1004.4472, 1004.55, 1004.76, 1005.38, 1008.25, 1008.345, 1009.01, 1009.24, 1009.98, 1011.48, 1012.61, 1012.875, and 1013.73, F.S.; and reenacting ss. 215.559 and 338.165, 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that have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and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; and confirming the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process; providing an effective date.

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

Section 1. Section 7.11, Florida Statutes, is amended to read:

7.11 Collier County.—The boundary lines of Collier County are as follows: Beginning where the north line to township forty-eight south extended westerly intersects the western boundary of the State of Florida in the waters of the Gulf of Mexico; thence easterly on said township line to the

northwest corner of section four of township forty-eight south of range twenty-five east; thence south to the northwest corner of section nine of said township and range; thence east to the eastern boundary line of range twenty-six east; thence north on said range line to the northwest corner of township forty-seven south of range twenty-seven east; thence east on the north line of township forty-seven south to the east line of range twenty-seven east; thence north on said range line to the north line of township forty-six south; thence east on the north line of township forty-six south to the east line of range thirty east; thence south on said range line to the north line of township forty-nine south; thence east on the north line of said township forty-nine south to the east line of range thirty-four east and the west boundary of Broward County; thence south on said range line, concurrent with the west boundary of Broward and Miami-Dade ~~Dade~~ Counties, to the point of intersection with the south line of township fifty-three south; thence west on the south line of said township fifty-three south to where that line extended intersects the western boundary of the State of Florida in the waters of the Gulf of Mexico; thence northwesterly and along the waters of said Gulf of Mexico, including the waters of said gulf within the jurisdiction of the State of Florida, to the point of beginning.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 2. Section 7.13, Florida Statutes, is amended to read:

7.13 Miami-Dade ~~Dade~~ County.—The boundary lines of Miami-Dade ~~Dade~~ County are as follows: Beginning at the southwest corner of township fifty-one south, range thirty-five east; thence east following the south line of township fifty-one south, across ranges thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine and forty east, to the southwest corner of township fifty-one south, range forty-one east; thence north on the range line dividing ranges forty and forty-one east to the northwest corner of section thirty-one, township fifty-one south, range forty-one east; thence east on the north boundary of said section thirty-one and other sections to the waters of the Atlantic Ocean; thence easterly to the eastern boundary of the State of Florida; thence southward along the coast, including the waters of the Atlantic Ocean and the gulf stream within the jurisdiction of the State of Florida, to a point on the reefs of Florida immediately opposite the mouth of Broad Creek (a stream separating Cayo Lago from Old Rhodes Key); thence in a direct line through the middle of said stream to a point east of Mud Point, said point being located on the east line of the west one half of section seven, township fifty-nine south, range forty east, at a distance of two thousand three hundred feet, more or less, south of the northeast corner of the west one half of said section seven being a point on the existing Miami-Dade ~~Dade~~ County boundary line as established by s. 7.13; thence run southerly along the east line of the west one half of said section seven, township fifty-nine south, range forty east, to a point two thousand feet, more or less, north of the south line of said section seven; thence run westerly along a line parallel to the south line of said section seven, through the open water midway between two islands lying in the west one half of said section seven to a point on the west line of section seven, township fifty-nine south, range forty east; thence run southerly for a distance of two thousand

feet, more or less, to the southwest corner of said section seven; thence run southerly along the west line of section eighteen, township fifty-nine south, range forty east, to the southwest corner of said section eighteen; thence run in a southwesterly direction along a straight line to the southwest corner of section twenty-four, township fifty-nine south, range thirty-nine east; thence run southerly along the east line of section twenty-six, township fifty-nine south, range thirty-nine east, to the southeast corner of said section twenty-six; thence run southerly along the east line of section thirty-five, township fifty-nine south, range thirty-nine east, to a point of intersection with a line drawn parallel with the north line of said section thirty-five and through the open water midway between Main and Short Key; thence run westerly along a line parallel to the north line of said section thirty-five, through the open water midway between Main and Short Key to a point on the west line of section thirty-five and a point on the east line of section thirty-four, township fifty-nine south, range thirty-nine east; thence run southwesterly in a straight line to the southwest corner of the southeast quarter of said section thirty-four and the northeast corner of the northwest quarter of section three, township sixty south, range thirty-nine east; thence run southerly along the east line of the northwest quarter of said section three to the southeast corner of the northwest quarter of said section three; thence run westerly along the south line of the northwest quarter of said section three to the southwest corner of the northwest quarter of said section three; thence run westerly to a point on the northerly bank of Manatee Creek at the easterly mouth of said Manatee Creek; thence run westerly meandering the northerly bank of Manatee Creek to the intersection thereof with the west right-of-way line of United States Highway No. 1, said right-of-way line being the east boundary of the Everglades National Park and said north bank of Manatee Creek being the southerly line of the mainland of the State of Florida and the existing boundary line between Miami-Dade ~~Dade~~ County and Monroe County; thence along the mainland to the range line between ranges thirty-four and thirty-five east, thence due north on said range line to place of beginning. However, the boundary lines of Miami-Dade ~~Dade~~ County shall not include the following: Begin at the northwest corner of section thirty-five, township fifty-one south, range forty-two east, Miami-Dade ~~Dade~~ County, Florida; thence, southerly following the west line of section thirty-five, township fifty-one south, range forty-two east to the intersection with a line which is two hundred and thirty feet south of and parallel to the north line of section thirty-five, township fifty-one south, range forty-two east; thence, easterly following the line which is two hundred and thirty feet south of and parallel to the north line of section thirty-five, township fifty-one south, range forty-two east, to the intersection with the west boundary line of the Town of Golden Beach; thence, northerly following the west boundary line of the Town of Golden Beach to the intersection with the north line of section thirty-five, township fifty-one south, range forty-two east; thence, westerly following the north line of section thirty-five, township fifty-one south, range forty-two east to the point of beginning.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 3. Section 7.44, Florida Statutes, is amended to read:

7.44 Monroe County.—So much of the State of Florida as is situated south of the County of Collier and west or south of the County of Miami-Dade ~~Dade~~, constitutes the County of Monroe.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 4. Section 11.904, Florida Statutes, is amended to read:

11.904 Staff.—The Senate and the House of Representatives may each employ staff to work for the joint committee on matters related to joint committee activities. The Office of Program Policy Analysis and Government Accountability shall provide primary research services as directed by the committee and the joint committee and assist the committee in conducting the reviews under s. 11.907 ~~11.910~~. Upon request, the Auditor General shall assist the committees and the joint committee.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation. Section 11.907 references the legislative reviews, and s. 11.910 references information for the reviews.

Section 5. Subsection (4) of section 11.908, Florida Statutes, is amended to read:

11.908 Committee duties.—No later than March 1 of the year in which a state agency or its advisory committees are scheduled to be reviewed, the committee shall and the joint committee may:

(4) Present to the President of the Senate and the Speaker of the House of Representatives a report on the agencies and advisory committees scheduled to be reviewed that year by the Legislature. In the report, the committee shall include its specific findings and recommendations regarding the information considered pursuant to s. 11.910, make recommendations as described in s. 11.911, and propose legislation as it considers necessary. In the joint committee report, the joint committee shall include its specific findings and recommendations regarding the information considered pursuant to s. 11.910 ~~11.90~~ and make recommendations as described in s. 11.911.

Reviser's note.—Amended to confirm substitution by the editors of a reference to s. 11.910 for a reference to s. 11.90 to conform to context. Section 11.90 relates to the Legislative Budget Commission; s. 11.910 relates to information relevant in determining whether a public need exists for continuation of a state agency.

Section 6. Section 15.0395, Florida Statutes, is amended to read:

15.0395 Official festival.—The festival "Calle Ocho-Open House 8," a Florida historical festival presented annually by the Kiwanis Club of Little Havana and the Hispanic citizens of Miami-Dade ~~Dade~~ County, is hereby recognized as a festival of Florida.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 7. Paragraph (a) of subsection (4) of section 20.23, Florida Statutes, is amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(4)(a) The operations of the department shall be organized into seven districts, each headed by a district secretary and a turnpike enterprise, headed by an executive director. The district secretaries and the turnpike executive director shall be registered professional engineers in accordance with the provisions of chapter 471 or, in lieu of professional engineer registration, a district secretary or turnpike executive director may hold an advanced degree in an appropriate related discipline, such as a Master of Business Administration. The headquarters of the districts shall be located in Polk, Columbia, Washington, Broward, Volusia, Miami-Dade ~~Dade~~, and Hillsborough Counties. The headquarters of the turnpike enterprise shall be located in Orange County. In order to provide for efficient operations and to expedite the decisionmaking process, the department shall provide for maximum decentralization to the districts.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 8. Subsection (11) of section 26.021, Florida Statutes, is amended to read:

26.021 Judicial circuits; judges.—

(11) The eleventh circuit is composed of Miami-Dade ~~Dade~~ County.

The judicial nominating commission of each circuit, in submitting nominations for any vacancy in a judgeship, and the Governor, in filling any vacancy for a judgeship, shall consider whether the existing judges within the circuit, together with potential nominees or appointees, reflect the geographic distribution of the population within the circuit, the geographic distribution of the caseload within the circuit, the racial and ethnic diversity of the population within the circuit, and the geographic distribution of the racial and ethnic minority population within the circuit.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 9. Section 26.32, Florida Statutes, is amended to read:

26.32 Eleventh Judicial Circuit.—

SPRING TERM.

Miami-Dade ~~Dade~~ County, second Tuesday in May.

FALL TERM.

Miami-Dade ~~Dade~~ County, second Tuesday in November.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 10. Paragraph (b) of subsection (1) of section 30.071, Florida Statutes, is amended to read:

30.071 Applicability and scope of act.—

(1) This act applies to all deputy sheriffs, with the following exceptions:

(b) Deputy sheriffs in a county that, by special act of the Legislature, local charter, ordinance, or otherwise, has established a civil or career service system which grants collective bargaining rights for deputy sheriffs, including, but not limited to, deputy sheriffs in the following counties: Broward, Miami-Dade ~~Dade~~, Duval, Escambia, and Volusia.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 11. Subsection (1) of section 35.05, Florida Statutes, is amended to read:

35.05 Headquarters.—

(1) The headquarters of the First Appellate District shall be in the Second Judicial Circuit, Tallahassee, Leon County; of the Second Appellate District in the Tenth Judicial Circuit, Lakeland, Polk County; of the Third Appellate District in the Eleventh Judicial Circuit, Miami-Dade ~~Dade~~ County; of the Fourth Appellate District in the Fifteenth Judicial Circuit, Palm Beach County; and the Fifth Appellate District in the Seventh Judicial Circuit, Daytona Beach, Volusia County.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 12. Paragraph (a) of subsection (4) of section 39.0132, Florida Statutes, is amended to read:

39.0132 Oaths, records, and confidential information.—

(4)(a)1. All information obtained pursuant to this part in the discharge of official duty by any judge, employee of the court, authorized agent of the department, correctional probation officer, or law enforcement agent is confidential and exempt from s. 119.07(1) and may not be disclosed to anyone other than the authorized personnel of the court, the department and its designees, correctional probation officers, law enforcement agents, guardian ad litem, and others entitled under this chapter to receive that information, except upon order of the court.

2. Any information related to the best interests of a child, as determined by a guardian ad litem, which is held by a guardian ad litem, including but

not limited to medical, mental health, substance abuse, child care, education, law enforcement, court, social services, and financial records; and any other information maintained by a guardian ad litem which is identified as confidential information under this chapter; is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such confidential and exempt information may not be disclosed to anyone other than the authorized personnel of the court, the department and its designees, correctional probation officers, law enforcement agents, guardians ad litem, and others entitled under this chapter to receive that information, except upon order of the court. This subparagraph is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15, and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 13. Section 92.05, Florida Statutes, is amended to read:

92.05 Final judgments and decrees of courts of record.—All final judgments and decrees heretofore or hereafter rendered and entered in courts of record of this state, and certified copies thereof, shall be admissible as prima facie evidence in the several courts of this state of the entry and validity of such judgments and decrees. For the purposes of this section, a court of record shall be taken and construed to mean any court other than a municipal court or the Metropolitan Court of Miami-Dade ~~Dade~~ County.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 14. Subsection (7) of section 99.012, Florida Statutes, is amended to read:

99.012 Restrictions on individuals qualifying for public office.—

(7) Nothing contained in subsection (3) ~~subsections (3) and (4)~~ relates to persons holding any federal office.

Reviser's note.—Amended to conform to the repeal of the referenced s. 99.012(4) by s. 14, ch. 2007-30, Laws of Florida.

Section 15. Subsection (2) of section 106.023, Florida Statutes, is amended to read:

106.023 Statement of candidate.—

(2) The execution and filing of the statement of candidate does not in and of itself create a presumption that any violation of this chapter or chapter 104 is a willful violation ~~as defined in s. 106.37~~.

Reviser's note.—Amended to conform to the repeal of s. 106.37 by s. 51, ch. 2007-30, Laws of Florida.

Section 16. Section 106.0706, Florida Statutes, is amended to read:

106.0706 Electronic filing of campaign finance reports; confidentiality of information and draft reports.—All user identifications and passwords held by the Department of State pursuant to s. 106.0705 are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. All records, reports, and files stored in the electronic filing system pursuant to s. 106.0705 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the report has been submitted as a filed report. This section is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 17. Paragraph (b) of subsection (2) of section 112.324, Florida Statutes, is amended to read:

112.324 Procedures on complaints of violations; public records and meeting exemptions.—

(2)

(b) Paragraph (a) is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 18. Subsection (9) of section 120.545, Florida Statutes, is amended to read:

120.545 Committee review of agency rules.—

(9) If the committee objects to a proposed or existing rule and the agency refuses to modify, amend, withdraw, or repeal the rule, the committee shall file with the Department of State a notice of the objection, detailing with particularity its objection to the rule. The Department of State shall publish this notice in the Florida Administrative Weekly and shall publish, as a history note to the rule in the Florida Administrative Code, a reference to the committee's objection and to the issue of the Florida Administrative Weekly in which the full text thereof appears.

Reviser's note.—Amended to confirm the insertion of the words "Florida Administrative" by the editors to reference the complete name of the publication.

Section 19. Paragraph (c) of subsection (2) of section 121.051, Florida Statutes, is amended to read:

121.051 Participation in the system.—

(2) OPTIONAL PARTICIPATION.—

(c) Employees of public community colleges or charter technical career centers sponsored by public community colleges, as designated in s. 1000.21(3), who are members of the Regular Class of the Florida Retirement System and who comply with the criteria set forth in this paragraph and in s. 1012.875 may elect, in lieu of participating in the Florida Retirement System, to withdraw from the Florida Retirement System altogether and participate in an optional retirement program provided by the employing agency under s. 1012.875, to be known as the State Community College System Optional Retirement Program. Pursuant thereto:

1. Through June 30, 2001, the cost to the employer for such annuity shall equal the normal cost portion of the employer retirement contribution which would be required if the employee were a member of the Regular Class defined benefit program, plus the portion of the contribution rate required by s. 112.364(8) that would otherwise be assigned to the Retiree Health Insurance Subsidy Trust Fund. Effective July 1, 2001, each employer shall contribute on behalf of each participant in the optional program an amount equal to 10.43 percent of the participant's gross monthly compensation. The employer shall deduct an amount to provide for the administration of the optional retirement program. The employer providing the optional program shall contribute an additional amount to the Florida Retirement System Trust Fund equal to the unfunded actuarial accrued liability portion of the Regular Class contribution rate.

2. The decision to participate in such an optional retirement program shall be irrevocable for as long as the employee holds a position eligible for participation, except as provided in subparagraph 3. Any service creditable under the Florida Retirement System shall be retained after the member withdraws from the Florida Retirement System; however, additional service credit in the Florida Retirement System shall not be earned while a member of the optional retirement program.

3. An employee who has elected to participate in the optional retirement program shall have one opportunity, at the employee's discretion, to choose to transfer from the optional retirement program to the defined benefit program of the Florida Retirement System or to the Public Employee Optional Retirement Program, subject to the terms of the applicable optional retirement program contracts.

a. If the employee chooses to move to the Public Employee Optional Retirement Program, any contributions, interest, and earnings creditable to the employee under the State Community College System Optional Retirement Program shall be retained by the employee in the State Community College System Optional Retirement Program, and the applicable provisions of s. 121.4501(4) shall govern the election.

b. If the employee chooses to move to the defined benefit program of the Florida Retirement System, the employee shall receive service credit equal to his or her years of service under the State Community College System Optional Retirement Program.

(I) The cost for such credit shall be an amount representing the present value of that employee's accumulated benefit obligation for the affected period of service. The cost shall be calculated as if the benefit commencement occurs on the first date the employee would become eligible for unreduced benefits, using the discount rate and other relevant actuarial assumptions that were used to value the Florida Retirement System defined benefit plan liabilities in the most recent actuarial valuation. The calculation shall include any service already maintained under the defined benefit plan in addition to the years under the State Community College System Optional Retirement Program. The present value of any service already maintained under the defined benefit plan shall be applied as a credit to total cost resulting from the calculation. The division shall ensure that the transfer sum is prepared using a formula and methodology certified by an enrolled actuary.

(II) The employee must transfer from his or her State Community College System Optional Retirement Program account and from other employee moneys as necessary, a sum representing the present value of that employee's accumulated benefit obligation immediately following the time of such movement, determined assuming that attained service equals the sum of service in the defined benefit program and service in the State Community College System Optional Retirement Program.

4. Participation in the optional retirement program shall be limited to those employees who satisfy the following eligibility criteria:

a. The employee must be otherwise eligible for membership or renewed membership in the Regular Class of the Florida Retirement System, as provided in s. 121.021(11) and (12) or s. 121.122.

b. The employee must be employed in a full-time position classified in the Accounting Manual for Florida's Public Community Colleges as:

(I) Instructional; or

(II) Executive Management, Instructional Management, or Institutional Management, if a community college determines that recruiting to fill a vacancy in the position is to be conducted in the national or regional market, and:

(A) The duties and responsibilities of the position include either the formulation, interpretation, or implementation of policies; or

(B) The duties and responsibilities of the position include the performance of functions that are unique or specialized within higher education and that frequently involve the support of the mission of the community college.

c. The employee must be employed in a position not included in the Senior Management Service Class of the Florida Retirement System, as described in s. 121.055.

5. Participants in the program are subject to the same reemployment limitations, renewed membership provisions, and forfeiture provisions as are applicable to regular members of the Florida Retirement System under ss. 121.091(9), 121.122, and 121.091(5), respectively.

6. Eligible community college employees shall be compulsory members of the Florida Retirement System until, pursuant to the procedures set forth in s. 1012.875, a written election to withdraw from the Florida Retirement System and to participate in the State Community College System Optional Retirement Program is filed with the program administrator and received by the division.

a. Any community college employee whose program eligibility results from initial employment shall be enrolled in the State Community College System Optional Retirement Program retroactive to the first day of eligible employment. The employer retirement contributions paid through the month of the employee plan change shall be transferred to the community college for the employee's optional program account, and, effective the first day of the next month, the employer shall pay the applicable contributions based upon subparagraph 1.

b. Any community college employee whose program eligibility results from a change in status due to the subsequent designation of the employee's position as one of those specified in subparagraph 4. or due to the employee's appointment, promotion, transfer, or reclassification to a position specified in subparagraph 4. shall be enrolled in the program upon the first day of the first full calendar month that such change in status becomes effective. The employer retirement contributions paid from the effective date through the month of the employee plan change shall be transferred to the community college for the employee's optional program account, and, effective the first day of the next month, the employer shall pay the applicable contributions based upon subparagraph 1.

7. Effective July 1, 2003, through December 31, 2008, any participant of the State Community College System Optional Retirement Program who has service credit in the defined benefit plan of the Florida Retirement System for the period between his or her first eligibility to transfer from the defined benefit plan to the optional retirement program and the actual date of transfer may, during his or her employment, elect to transfer to the optional retirement program a sum representing the present value of the accumulated benefit obligation under the defined benefit retirement program for such period of service credit. Upon such transfer, all such service credit previously earned under the defined benefit program of the Florida Retirement System during this period shall be nullified for purposes of entitlement to a future benefit under the defined benefit program of the Florida Retirement System.

Reviser's note.—Amended to conform to the complete title of the State Community College System Optional Retirement Program as referenced in s. 1012.875.

Section 20. Paragraph (c) of subsection (1) of section 121.091, Florida Statutes, is amended to read:

121.091 Benefits payable under the system.—Benefits may not be paid under this section unless the member has terminated employment as provided in s. 121.021(39)(a) or begun participation in the Deferred Retirement Option Program as provided in subsection (13), and a proper application has been filed in the manner prescribed by the department. The department may cancel an application for retirement benefits when the member or beneficiary fails to timely provide the information and documents required by this chapter and the department's rules. The department shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application when the required information or documents are not received.

(1) NORMAL RETIREMENT BENEFIT.—Upon attaining his or her normal retirement date, the member, upon application to the administrator, shall receive a monthly benefit which shall begin to accrue on the first day of the month of retirement and be payable on the last day of that month and each month thereafter during his or her lifetime. The normal retirement benefit, including any past or additional retirement credit, may not exceed 100 percent of the average final compensation. The amount of monthly benefit shall be calculated as the product of A and B, subject to the adjustment of C, if applicable, as set forth below:

(c) C is the normal retirement benefit credit brought forward as of November 30, 1970, by a former member of an existing system. Such normal retirement benefit credit shall be determined as the product of X and Y when X is the percentage of average final compensation which the member would have been eligible to receive if the member had attained his or her normal retirement date as of November 30, 1970, all in accordance with the existing system under which the member is covered on November 30, 1970, and Y is average final compensation as defined in s. 121.021(24) ~~121.021(25)~~. However, any member of an existing retirement system who is eligible to retire and who does retire, become disabled, or die prior to April 15, 1971, may have his or her retirement benefits calculated on the basis of the best 5 of the last 10 years of service.

Reviser's note.—Amended to correct an erroneous reference and conform to context. "Average final compensation" is defined in s. 121.021(24).

Section 21. Subsection (2) of section 121.121, Florida Statutes, is amended to read:

121.121 Authorized leaves of absence.—

(2) A member who is required to resign his or her office as a subordinate officer, deputy sheriff, or police officer because he or she is a candidate for a public office which is currently held by his or her superior officer who is also a candidate for reelection to the same office, in accordance with s. 99.012(4) ~~99.012(5)~~, shall, upon return to covered employment, be eligible to purchase retirement credit for the period between his or her date of resignation and the beginning of the term of office for which he or she was a candidate as a leave of absence without pay, as provided in subsection (1).

Reviser's note.—Amended to conform to the redesignation of s. 99.012(5) as s. 99.012(4) by s. 14, ch. 2007-30, Laws of Florida.

Section 22. Paragraph (f) of subsection (2) and paragraph (a) of subsection (4) of section 121.4501, Florida Statutes, are amended to read:

121.4501 Public Employee Optional Retirement Program.—

(2) DEFINITIONS.—As used in this part, the term:

(f) "Eligible employee" means an officer or employee, as defined in s. 121.021(11), who:

1. Is a member of, or is eligible for membership in, the Florida Retirement System, including any renewed member of the Florida Retirement System; or

2. Participates in, or is eligible to participate in, the Senior Management Service Optional Annuity Program as established under s. 121.055(6), the State Community College <u>System</u> Optional Retirement Program as established under s. 121.051(2)(c), or the State University System Optional Retirement Program established under s. 121.35.

The term does not include any member participating in the Deferred Retirement Option Program established under s. 121.091(13) or a mandatory participant of the State University System Optional Retirement Program established under s. 121.35.

(4) PARTICIPATION; ENROLLMENT.—

(a)1. With respect to an eligible employee who is employed in a regularly established position on June 1, 2002, by a state employer:

a. Any such employee may elect to participate in the Public Employee Optional Retirement Program in lieu of retaining his or her membership in the defined benefit program of the Florida Retirement System. The election must be made in writing or by electronic means and must be filed with the third-party administrator by August 31, 2002, or, in the case of an active employee who is on a leave of absence on April 1, 2002, by the last business day of the 5th month following the month the leave of absence concludes. This election is irrevocable, except as provided in paragraph (e). Upon making such election, the employee shall be enrolled as a participant of the Public Employee Optional Retirement Program, the employee's membership in the Florida Retirement System shall be governed by the provisions of this part, and the employee's membership in the defined benefit program of the Florida Retirement System shall terminate. The employee's enrollment in the Public Employee Optional Retirement Program shall be effective the first day of the month for which a full month's employer contribution is made to the optional program.

b. Any such employee who fails to elect to participate in the Public Employee Optional Retirement Program within the prescribed time period is deemed to have elected to retain membership in the defined benefit program

of the Florida Retirement System, and the employee's option to elect to participate in the optional program is forfeited.

2. With respect to employees who become eligible to participate in the Public Employee Optional Retirement Program by reason of employment in a regularly established position with a state employer commencing after April 1, 2002:

a. Any such employee shall, by default, be enrolled in the defined benefit retirement program of the Florida Retirement System at the commencement of employment, and may, by the last business day of the 5th month following the employee's month of hire, elect to participate in the Public Employee Optional Retirement Program. The employee's election must be made in writing or by electronic means and must be filed with the third-party administrator. The election to participate in the optional program is irrevocable, except as provided in paragraph (e).

b. If the employee files such election within the prescribed time period, enrollment in the optional program shall be effective on the first day of employment. The employer retirement contributions paid through the month of the employee plan change shall be transferred to the optional program, and, effective the first day of the next month, the employer shall pay the applicable contributions based on the employee membership class in the optional program.

c. Any such employee who fails to elect to participate in the Public Employee Optional Retirement Program within the prescribed time period is deemed to have elected to retain membership in the defined benefit program of the Florida Retirement System, and the employee's option to elect to participate in the optional program is forfeited.

3. With respect to employees who become eligible to participate in the Public Employee Optional Retirement Program pursuant to s. 121.051(2)(c)3. or s. 121.35(3)(i), any such employee may elect to participate in the Public Employee Optional Retirement Program in lieu of retaining his or her participation in the State Community College System Optional Retirement Program or the State University System Optional Retirement Program. The election must be made in writing or by electronic means and must be filed with the third-party administrator. This election is irrevocable, except as provided in paragraph (e). Upon making such election, the employee shall be enrolled as a participant of the Public Employee Optional Retirement Program, the employee's membership in the Florida Retirement System shall be governed by the provisions of this part, and the employee's participation in the State Community College System Optional Retirement Program or the State University System Optional Retirement Program shall terminate. The employee's enrollment in the Public Employee Optional Retirement Program shall be effective the first day of the month for which a full month's employer contribution is made to the optional program.

4. For purposes of this paragraph, "state employer" means any agency, board, branch, commission, community college, department, institution, institution of higher education, or water management district of the state,

which participates in the Florida Retirement System for the benefit of certain employees.

Reviser's note.—Amended to conform to the complete title of the State Community College System Optional Retirement Program as referenced in s. 1012.875.

Section 23. Subsection (5) of section 124.01, Florida Statutes, is amended to read:

124.01 Division of counties into districts; county commissioners.—

(5) This section shall not apply to Miami-Dade ~~Dade~~ County.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 24. Paragraph (b) of subsection (11) of section 125.901, Florida Statutes, is amended to read:

125.901 Children's services; independent special district; council; powers, duties, and functions.—

(11)

(b) This subsection is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15, and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 25. Paragraph (b) of subsection (2) of section 159.804, Florida Statutes, is amended to read:

159.804 Allocation of state volume limitation.—The division shall annually determine the amount of private activity bonds permitted to be issued in this state under the Code and shall make such information available upon request to any person or agency. The total amount of private activity bonds authorized to be issued in this state pursuant to the Code shall be initially allocated as follows on January 1 of each year:

(2)

(b) The following regions are established for the purposes of this allocation:

1. Region 1 consisting of Bay, Escambia, Holmes, Okaloosa, Santa Rosa, Walton, and Washington Counties.

2. Region 2 consisting of Calhoun, Franklin, Gadsden, Gulf, Jackson, Jefferson, Leon, Liberty, and Wakulla Counties.

3. Region 3 consisting of Alachua, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Madison, Suwannee, Taylor, and Union Counties.

4. Region 4 consisting of Baker, Clay, Flagler, Nassau, Putnam, and St. Johns Counties.

5. Region 5 consisting of Citrus, Hernando, Levy, Marion, Pasco, and Sumter Counties.

6. Region 6 consisting of Lake, Osceola, and Seminole Counties.

7. Region 7 consisting of DeSoto, Hardee, Highlands, Manatee, Okeechobee, and Polk Counties.

8. Region 8 consisting of Charlotte, Collier, Glades, Hendry, Lee, Monroe, and Sarasota Counties.

9. Region 9 consisting of Indian River, Martin, and St. Lucie Counties.

10. Region 10 consisting of Broward County.

11. Region 11 consisting of Miami-Dade ~~Dade~~ County.

12. Region 12 consisting of Duval County.

13. Region 13 consisting of Hillsborough County.

14. Region 14 consisting of Orange County.

15. Region 15 consisting of Palm Beach County.

16. Region 16 consisting of Pinellas County.

17. Region 17 consisting of Brevard and Volusia Counties.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 26. Paragraph (a) of subsection (2) and paragraph (e) of subsection (3) of section 163.06, Florida Statutes, are amended to read:

163.06 Miami River Commission.—

(2) The Miami River Commission shall consist of:

(a) A policy committee comprised of the Governor, the chair of the Miami-Dade County ~~Dade~~ delegation, the chair of the governing board of the South Florida Water Management District, the Miami-Dade County State Attorney, the Mayor of Miami, the Mayor of Miami-Dade County, a commissioner of the City of Miami Commission, a commissioner of the Miami-Dade County Commission, the chair of the Miami River Marine Group, the chair of the Marine Council, the Executive Director of the Downtown Development Authority, and the chair of the Greater Miami Chamber of Commerce; two neighborhood representatives, selected from the Spring Garden Neighborhood Association, the Grove Park Neighborhood Association, and the Miami

River Neighborhood Enhancement Corporation, one neighborhood representative to be appointed by the city commission and one neighborhood representative to be appointed by the county commission, each selected from a list of three names submitted by each such organization; one representative from an environmental or civic association, appointed by the Governor; and three members-at-large, who shall be persons who have a demonstrated history of involvement on the Miami River through business, residence, or volunteer activity, one appointed by the Governor, one appointed by the city commission, and one appointed by the county commission. All members shall be voting members. The committee shall also include a member of the United States Congressional delegation and the Captain of the Port of Miami as a representative of the United States Coast Guard, as nonvoting, ex officio members. The policy committee may meet monthly, but shall meet at least quarterly.

(3) The policy committee shall have the following powers and duties:

(e) Publicize a semiannual report describing accomplishments of the commission and each member agency, as well as the status of each pending task. The committee shall distribute the report to the city and county commissions and mayors, the Governor, chair of the Miami-Dade ~~Dade~~ County delegation, stakeholders, and the local media.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 27. Paragraph (d) of subsection (3) of section 163.3182, Florida Statutes, is amended to read:

163.3182 Transportation concurrency backlogs.—

(3) POWERS OF A TRANSPORTATION CONCURRENCY BACKLOG AUTHORITY.—Each transportation concurrency backlog authority has the powers necessary or convenient to carry out the purposes of this section, including the following powers in addition to others granted in this section:

(d) To borrow money; to apply for and accept advances, loans, grants, contributions, and any other forms of financial assistance from the Federal Government or the state, county, or any other public body or from any sources, public or private, for the purposes of this part; to give such security as may be required; to enter into and carry out contracts or agreements; and to include in any contracts for financial assistance with the Federal Government for or with respect to a transportation concurrency backlog project and related activities such conditions imposed pursuant to federal laws as the transportation concurrency backlog authority considers reasonable and appropriate and which are not inconsistent with the purposes of this section.

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

Section 28. Paragraph (a) of subsection (6) of section 163.32465, Florida Statutes, is amended to read:

163.32465 State review of local comprehensive plans in urban areas.—

(6) ADMINISTRATIVE CHALLENGES TO PLAN AMENDMENTS FOR PILOT PROGRAM.—

(a) Any "affected person" as defined in s. 163.3184(1)(a) may file a petition with the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57, with a copy served on the affected local government, to request a formal hearing to challenge whether the amendments are "in compliance" as defined in s. 163.3184(1)(b). This petition must be filed with the Division within 30 days after the local government adopts the amendment. The state land planning agency may intervene in a proceeding instituted by an affected person.

Reviser's note.—Amended to confirm the insertion of the word "agency" by the editors.

Section 29. Section 163.430, Florida Statutes, is amended to read:

163.430 Powers supplemental to existing community redevelopment powers.—The powers conferred upon counties or municipalities by this part shall be supplemental to any community redevelopment powers now being exercised by any county or municipality in accordance with the provisions of any population act, special act, or under the provisions of the home rule charter for Miami-Dade ~~Dade~~ County, or under the provision of the charter of the consolidated City of Jacksonville.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 30. 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 former s. 218.503(6)(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 former s. 218.503(6)(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 repeal of s. 218.503(6) by s. 6, ch. 2007-6, Laws of Florida.

Section 31. Section 171.071, Florida Statutes, is amended to read:

171.071 Effect in Miami-Dade ~~Dade~~ County.—Municipalities within the boundaries of Miami-Dade ~~Dade~~ County shall adopt annexation or contraction ordinances pursuant to methods established by the home rule charter established pursuant to s. 6(e), Art. VIII of the State Constitution.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 32. 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(33) ~~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 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 conform to the redesignation of s. 403.703(11) as s. 403.703(33) by s. 6, ch. 2007-184, Laws of Florida.

Section 33. Paragraph (e) of subsection (2) of section 190.005, Florida Statutes, is amended to read:

190.005 Establishment of district.—

(2) The exclusive and uniform method for the establishment of a community development district of less than 1,000 acres in size shall be pursuant to an ordinance adopted by the county commission of the county having jurisdiction over the majority of land in the area in which the district is to be located granting a petition for the establishment of a community development district as follows:

(e) If all of the land in the area for the proposed district is within the territorial jurisdiction of a municipal corporation, then the petition requesting establishment of a community development district under this act shall be filed by the petitioner with that particular municipal corporation. In such event, the duties of the county, hereinabove described, in action upon the petition shall be the duties of the municipal corporation. If any of the land area of a proposed district is within the land area of a municipality, the county commission may not create the district without municipal approval. If all of the land in the area for the proposed district, even if less than 1,000 acres, is within the territorial jurisdiction of two or more municipalities, the petition shall be filed with the Florida Land and Water Adjudicatory Commission and proceed in accordance with subsection (1).

Reviser's note.—Amended to confirm the insertion of the word "than" by the editors.

Section 34. Paragraph (c) of subsection (2) of section 192.0105, Florida Statutes, is amended to read:

192.0105 Taxpayer rights.—There is created a Florida Taxpayer's Bill of Rights for property taxes and assessments to guarantee that the rights, privacy, and property of the taxpayers of this state are adequately safeguarded and protected during tax levy, assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but comprehensive statements that summarize the rights and obligations of the property appraisers, tax collectors, clerks of the court, local governing boards, the Department of Revenue, and taxpayers. Additional rights afforded to payors of taxes and assessments imposed under the revenue laws of this state are provided in s. 213.015. The rights afforded taxpayers to assure that their privacy and property are safeguarded and protected during tax levy, assessment, and collection are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue. The rights so guaranteed to state taxpayers in the Florida Statutes and the departmental rules include:

(2) THE RIGHT TO DUE PROCESS.—

(c) The right to file a petition for exemption or agricultural classification with the value adjustment board when an application deadline is missed, upon demonstration of particular extenuating circumstances for filing late (see ss. 193.461(3)(a) and 196.011(1), (7), (8), and (9)(d) ~~196.011(1), (7),(8), and (9)(c)~~).

Reviser's note.—Amended to confirm the substitution by the editors of a reference to conform to the redesignation of s. 196.011(9)(c) as s. 196.011(9)(d) by s. 2, ch. 2007-36, Laws of Florida.

Section 35. Subsection (4) of section 198.13, Florida Statutes, is amended to read:

198.13 Tax return to be made in certain cases; certificate of nonliability.—

(4) Notwithstanding any other provisions of this section and applicable to the estate of a decedent who dies after December 31, 2004, if, upon the death of the decedent, a state death tax credit or a generation-skipping transfer credit is not allowable pursuant to the Internal Revenue Code of 1986, as amended:

(a) The personal representative of the estate is not required to file a return under subsection (1) in connection with the estate.

(b) The person who would otherwise be required to file a return reporting a generation-skipping transfer under subsection (3) is not required to file such a return in connection with the estate.

The provisions of this subsection do not apply to estates of decedents ~~descendants~~ dying after December 31, 2010.

Reviser's note.—Amended to correct terminology and conform to context.

Section 36. Paragraphs (l) and (m) of subsection (8) of section 200.001, Florida Statutes, are amended to read:

200.001 Millages; definitions and general provisions.—

(8)

(l) "Maximum total county ad valorem taxes levied" means the total taxes levied by a county, municipal service taxing units of that county, and special districts dependent to that county at their individual maximum millages, calculated pursuant to s. 200.065(5)(a) for fiscal years 2009-2010 and thereafter and~~,~~ pursuant to s. 200.185 for fiscal years 2007-2008 and 2008-2009~~, and pursuant to s. 200.186 for fiscal year 2008-2009 if SJR 4B or HJR 3B is approved by a vote of the electors~~.

(m) "Maximum total municipal ad valorem taxes levied" means the total taxes levied by a municipality and special districts dependent to that municipality at their individual maximum millages, calculated pursuant to s. 200.065(5)(b) for fiscal years 2009-2010 and thereafter and~~,~~ by s. 200.185 for fiscal years 2007-2008 and 2008-2009~~, and pursuant to s. 200.186 for fiscal year 2008-2009 if SJR 4B or HJR 3B is approved by a vote of the electors~~.

Reviser's note.—Amended to conform to the fact that Senate Joint Resolution 4B, Special Session B, 2007, did not appear on the ballot for consideration by the electorate due to legal action concerning the ballot language for the proposed amendment. The House companion, House Joint Resolution 3B, did not pass.

Section 37. Subsection (3) of section 202.20, Florida Statutes, is amended to read:

202.20 Local communications services tax conversion rates.—

(3) For any county or school board that levies a discretionary surtax under s. 212.055, the rate of such tax on communications services as authorized by s. 202.19(5) shall be as follows:

County	.5% Discretionary surtax conversion rates	1% Discretionary surtax conversion rates	1.5% Discretionary surtax conversion rates
Alachua	0.3%	0.6%	0.8%
Baker	0.3%	0.5%	0.8%
Bay	0.3%	0.5%	0.8%
Bradford	0.3%	0.6%	0.8%
Brevard	0.3%	0.6%	0.9%
Broward	0.3%	0.5%	0.8%
Calhoun	0.3%	0.5%	0.8%
Charlotte	0.3%	0.6%	0.9%
Citrus	0.3%	0.6%	0.9%
Clay	0.3%	0.6%	0.8%
Collier	0.4%	0.7%	1.0%
Columbia	0.3%	0.6%	0.9%
~~Dade~~	~~0.3%~~	~~0.5%~~	~~0.8%~~
Desoto	0.3%	0.6%	0.8%
Dixie	0.3%	0.5%	0.8%
Duval	0.3%	0.6%	0.8%
Escambia	0.3%	0.6%	0.9%
Flagler	0.4%	0.7%	1.0%
Franklin	0.3%	0.6%	0.9%
Gadsden	0.3%	0.5%	0.8%
Gilchrist	0.3%	0.5%	0.7%
Glades	0.3%	0.6%	0.8%
Gulf	0.3%	0.5%	0.8%
Hamilton	0.3%	0.6%	0.8%
Hardee	0.3%	0.5%	0.8%
Hendry	0.3%	0.6%	0.9%
Hernando	0.3%	0.6%	0.9%
Highlands	0.3%	0.6%	0.9%
Hillsborough	0.3%	0.6%	0.8%
Holmes	0.3%	0.6%	0.8%
Indian River	0.3%	0.6%	0.9%
Jackson	0.3%	0.5%	0.7%
Jefferson	0.3%	0.5%	0.8%
Lafayette	0.3%	0.5%	0.7%
Lake	0.3%	0.6%	0.9%
Lee	0.3%	0.6%	0.9%
Leon	0.3%	0.6%	0.8%
Levy	0.3%	0.5%	0.8%
Liberty	0.3%	0.6%	0.8%
Madison	0.3%	0.5%	0.8%
Manatee	0.3%	0.6%	0.8%
Marion	0.3%	0.5%	0.8%
Martin	0.3%	0.6%	0.8%
Miami-Dade	0.3%	0.5%	0.8%
Monroe	0.3%	0.6%	0.9%
Nassau	0.3%	0.6%	0.8%

County	.5% Discretionary surtax conversion rates	1% Discretionary surtax conversion rates	1.5% Discretionary surtax conversion rates
Okaloosa	0.3%	0.6%	0.8%
Okeechobee	0.3%	0.6%	0.9%
Orange	0.3%	0.5%	0.8%
Osceola	0.3%	0.5%	0.8%
Palm Beach	0.3%	0.6%	0.8%
Pasco	0.3%	0.6%	0.9%
Pinellas	0.3%	0.6%	0.9%
Polk	0.3%	0.6%	0.8%
Putnam	0.3%	0.6%	0.8%
St. Johns	0.3%	0.6%	0.8%
St. Lucie	0.3%	0.6%	0.8%
Santa Rosa	0.3%	0.6%	0.9%
Sarasota	0.3%	0.6%	0.9%
Seminole	0.3%	0.6%	0.8%
Sumter	0.3%	0.5%	0.8%
Suwannee	0.3%	0.6%	0.8%
Taylor	0.3%	0.6%	0.9%
Union	0.3%	0.5%	0.8%
Volusia	0.3%	0.6%	0.8%
Wakulla	0.3%	0.6%	0.9%
Walton	0.3%	0.6%	0.9%
Washington	0.3%	0.5%	0.8%

The discretionary surtax conversion rate with respect to communications services reflected on bills dated on or after October 1, 2001, shall take effect without any further action by a county or school board that has levied a surtax on or before October 1, 2001. For a county or school board that levies a surtax subsequent to October 1, 2001, the discretionary surtax conversion rate with respect to communications services shall take effect upon the effective date of the surtax as provided in s. 212.054. The discretionary sales surtax rate on communications services for a county or school board levying a combined rate which is not listed in the table provided by this subsection shall be calculated by averaging or adding the appropriate rates from the table and rounding up to the nearest tenth of a percent.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 38. Paragraph (ccc) of subsection (7) 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.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(ccc) Equipment, machinery, and other materials for renewable energy technologies.—

1. As used in this paragraph, the term:

a. "Biodiesel" means the mono-alkyl esters of long-chain fatty acids derived from plant or animal matter for use as a source of energy and meeting the specifications for biodiesel and biodiesel blends with petroleum products as adopted by the Department of Agriculture and Consumer Services. Biodiesel may refer to biodiesel blends designated BXX, where XX represents the volume percentage of biodiesel fuel in the blend.

b. "Ethanol" means nominally anhydrous denatured alcohol produced by the fermentation of plant sugars meeting the specifications for fuel ethanol and fuel ethanol blends with petroleum products as adopted by the Department of Agriculture and Consumer Services. Ethanol may refer to fuel ethanol blends designated EXX, where XX represents the volume percentage of fuel ethanol in the blend.

c. "Hydrogen fuel cells" means equipment using hydrogen or a hydrogen-rich fuel in an electrochemical process to generate energy, electricity, or the transfer of heat.

2. The sale or use of the following in the state is exempt from the tax imposed by this chapter:

a. Hydrogen-powered vehicles, materials incorporated into hydrogen-powered vehicles, and hydrogen-fueling stations, up to a limit of $2 million in tax each state fiscal year for all taxpayers.

b. Commercial stationary hydrogen fuel cells, up to a limit of $1 million in tax each state fiscal year for all taxpayers.

c. Materials used in the distribution of biodiesel (B10-B100) and ethanol (E10-E100), including fueling infrastructure, transportation, and storage, up to a limit of $1 million in tax each state fiscal year for all taxpayers. Gasoline fueling station pump retrofits for ethanol (E10-E100) distribution qualify for the exemption provided in this sub-subparagraph.

3. The Department of Environmental Protection shall provide to the department a list of items eligible for the exemption provided in this paragraph.

4.a. The exemption provided in this paragraph shall be available to a purchaser only through a refund of previously paid taxes.

b. To be eligible to receive the exemption provided in this paragraph, a purchaser shall file an application with the Department of Environmental Protection. The application shall be developed by the Department of Environmental Protection, in consultation with the department, and shall require:

(I) The name and address of the person claiming the refund.

(II) A specific description of the purchase for which a refund is sought, including, when applicable, a serial number or other permanent identification number.

(III) The sales invoice or other proof of purchase showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the property was purchased.

(IV) A sworn statement that the information provided is accurate and that the requirements of this paragraph have been met.

c. Within 30 days after receipt of an application, the Department of Environmental Protection shall review the application and shall notify the applicant of any deficiencies. Upon receipt of a completed application, the Department of Environmental Protection shall evaluate the application for exemption and issue a written certification that the applicant is eligible for a refund or issue a written denial of such certification within 60 days after receipt of the application. The Department of Environmental Protection shall provide the department with a copy of each certification issued upon approval of an application.

d. Each certified applicant shall be responsible for forwarding a certified copy of the application and copies of all required documentation to the department within 6 months after certification by the Department of Environmental Protection.

e. The provisions of <u>former</u> s. 212.095 do not apply to any refund application made pursuant to this paragraph. A refund approved pursuant to this paragraph shall be made within 30 days after formal approval by the department.

f. The department may adopt all rules pursuant to ss. 120.536(1) and 120.54 to administer this paragraph, including rules establishing forms and procedures for claiming this exemption.

g. The Department of Environmental Protection shall be responsible for ensuring that the total amounts of the exemptions authorized do not exceed the limits as specified in subparagraph 2.

5. The Department of Environmental Protection shall determine and publish on a regular basis the amount of sales tax funds remaining in each fiscal year.

6. This paragraph expires July 1, 2010.

Reviser's note.—Amended to conform to the repeal of s. 212.095 by s. 24, ch. 2007-106, Laws of Florida.

Section 39. Paragraphs (c) and (e) of subsection (17) of section 215.555, Florida Statutes, are amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(17) TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.—

(c) Optional coverage.—For the contract year commencing June 1, 2007, and ending May 31, 2008, the contract year commencing ~~commending~~ June 1, 2008, and ending May 31, 2009, and the contract year commencing June 1, 2009, and ending May 31, 2010, the board shall offer, for each of such years, the optional coverage as provided in this subsection.

(e) TICL options addendum.—

1. The TICL options addendum shall provide for reimbursement of TICL insurers for covered events occurring between June 1, 2007, and May 31, 2008, and between June 1, 2008, and May 31, 2009, or between June 1, 2009, and May 31, 2010, in exchange for the TICL reimbursement premium paid into the fund under paragraph (f) ~~paragraph (e)~~. Any insurer writing covered policies has the option of selecting an increased limit of coverage under the TICL options addendum and shall select such coverage at the time that it executes the FHCF reimbursement contract.

2. The TICL addendum shall contain a promise by the board to reimburse the TICL insurer for 45 percent, 75 percent, or 90 percent of its losses from each covered event in excess of the insurer's retention, plus 5 percent of the reimbursed losses to cover loss adjustment expenses. The percentage shall be the same as the coverage level selected by the insurer under paragraph (4)(b).

3. The TICL addendum shall provide that reimbursement amounts shall not be reduced by reinsurance paid or payable to the insurer from other sources.

4. The priorities, schedule, and method of reimbursements under the TICL addendum shall be the same as provided under subsection (4).

Reviser's note.—Paragraph (17)(c) is amended to confirm the editorial substitution of the word "commencing" for the word "commending" to conform to context. Paragraph (17)(c) is also amended to confirm the editorial insertion of the word "and" preceding the word "the" to improve clarity and facilitate correct interpretation. Paragraph (17)(e) is amended to confirm the editorial insertion of the word "and" preceding the word "May" to improve clarity and facilitate correct interpretation. Paragraph (17)(e) is also

amended to confirm the editorial substitution of a reference to paragraph (f) for a reference to paragraph (e); paragraph (17)(f) provides for reimbursement premiums to be paid into the fund.

Section 40. Subsection (8) of section 215.5586, Florida Statutes, is amended to read:

215.5586 My Safe Florida Home Program.—There is established within the Department of Financial Services the My Safe Florida Home Program. The department shall provide fiscal accountability, contract management, and strategic leadership for the program, consistent with this section. This section does not create an entitlement for property owners or obligate the state in any way to fund the inspection or retrofitting of residential property in this state. Implementation of this program is subject to annual legislative appropriations. It is the intent of the Legislature that the My Safe Florida Home Program provide inspections for at least 400,000 site-built, single-family, residential properties and provide grants to at least 35,000 applicants before June 30, 2009. The program shall develop and implement a comprehensive and coordinated approach for hurricane damage mitigation that shall include the following:

(8) NO-INTEREST LOANS.—The department may develop a no-interest loan program by December 31, 2007, to encourage the private sector to provide loans to owners of site-built, single-family, residential property to pay for mitigation measures listed in subsection (2). A loan eligible for interest payments pursuant to this subsection may be for a term of up to 3 years and cover up to $5,000 in mitigation measures. The department shall pay the creditor the market rate of interest using funds appropriated for the My Safe Florida Home Program. In no case shall the department pay more than the interest rate set by s. 687.03. To be eligible for a loan, a loan applicant must first obtain a home inspection and report that specifies what improvements are needed to reduce the property's vulnerability to windstorm damage pursuant to this section and meet loan underwriting requirements set by the lender. The department may set aside up to $10 million from funds appropriated for the My Safe Florida Home Program to implement this subsection. The department shall adopt rules pursuant to ss. 120.536(1) ~~120.36(1)~~ and 120.54 to implement this subsection which may include eligibility criteria.

Reviser's note.—Amended to confirm the editorial substitution of a reference to s. 120.536(1) for a reference to s. 120.36(1) to correct an apparent error. Section 120.36 does not exist; s. 120.536(1) provides for an agency's rulemaking authority to adopt rules.

Section 41. Paragraph (a) of subsection (2) and subsection (7) of section 215.559, Florida Statutes, are reenacted 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.

(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 conform to the validity of the amendments to those provisions by s. 1, ch. 2005-147, Laws of Florida. The Governor vetoed the specific appropriation in s. 1, ch. 2005-147, Laws of Florida. The Governor's veto message states that he is withholding "approval of section 1," but the message goes on to set out the vetoed language, which is only the amendment to subsection (5).

Section 42. Paragraph (a) of subsection (16) and paragraph (a) of subsection (17) of section 218.415, Florida Statutes, are amended to read:

218.415 Local government investment policies.—Investment activity by a unit of local government must be consistent with a written investment plan adopted by the governing body, or in the absence of the existence of a governing body, the respective principal officer of the unit of local government and maintained by the unit of local government or, in the alternative, such activity must be conducted in accordance with subsection (17). Any such unit of local government shall have an investment policy for any public funds in excess of the amounts needed to meet current expenses as provided in subsections (1)-(16), or shall meet the alternative investment guidelines contained in subsection (17). Such policies shall be structured to place the highest priority on the safety of principal and liquidity of funds. The optimization of investment returns shall be secondary to the requirements for safety and liquidity. Each unit of local government shall adopt policies that are commensurate with the nature and size of the public funds within its custody.

(16) AUTHORIZED INVESTMENTS; WRITTEN INVESTMENT POLICIES.—Those units of local government electing to adopt a written investment policy as provided in subsections (1)-(15) may by resolution invest and reinvest any surplus public funds in their control or possession in:

(a) The Local Government Surplus Funds Trust Fund or any intergovernmental investment pool authorized pursuant to the Florida Interlocal Cooperation Act <u>of 1969,</u> as provided in s. 163.01.

(17) AUTHORIZED INVESTMENTS; NO WRITTEN INVESTMENT POLICY.—Those units of local government electing not to adopt a written investment policy in accordance with investment policies developed as provided in subsections (1)-(15) may invest or reinvest any surplus public funds in their control or possession in:

(a) The Local Government Surplus Funds Trust Fund, or any intergovernmental investment pool authorized pursuant to the Florida Interlocal Cooperation Act of 1969, as provided in s. 163.01.

The securities listed in paragraphs (c) and (d) shall be invested to provide sufficient liquidity to pay obligations as they come due.

Reviser's note.—Amended to conform to the name of the Florida Interlocal Cooperation Act of 1969 as referenced in s. 163.01.

Section 43. Subsection (4) of section 222.25, Florida Statutes, is amended to read:

222.25 Other individual property of natural persons exempt from legal process.—The following property is exempt from attachment, garnishment, or other legal process:

(4) A debtor's interest in personal property, not to exceed $4,000, if the debtor does not claim or receive the benefits of a homestead exemption under s. 4, Art. X of the State ~~Florida~~ Constitution. This exemption does not apply to a debt owed for child support or spousal support.

Reviser's note.—Amended to confirm the editorial substitution of the word "State" for the word "Florida" for contextual consistency.

Section 44. Section 250.83, Florida Statutes, is amended to read:

250.83 Construction of part.—In the event that any other provision of law conflicts with SCRA ~~SSCRA~~, USERRA, or the provisions of this chapter, the provisions of SCRA ~~SSCRA~~, USERRA, or the provisions of this chapter, whichever is applicable, shall control. Nothing in this part shall construe rights or responsibilities not provided under the SCRA ~~SSCRA~~, USERRA, or this chapter.

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

Section 45. Subsections (3) and (4) of section 253.033, Florida Statutes, are amended to read:

253.033 Inter-American Center property; transfer to board; continued use for government purposes.—

(3)(a) Except as provided in this subsection, in no event shall any of the lands known as "the Graves tract," including, without limitation, the land previously transferred to the City of Miami and Miami-Dade ~~Dade~~ County by the Inter-American Center Authority and the lands transferred pursuant

to this act, be used for other than public purposes. However, the portion of "the Graves tract" owned by the City of North Miami on the effective date of this act or subsequently acquired by the city shall not be subject to such public purpose use restriction and may be used for any purpose in accordance with local building and zoning regulations.

(b)1. Notwithstanding any provision of paragraph (a) or any other law to the contrary, the Board of Trustees of the Internal Improvement Trust Fund shall convey and transfer to the City of North Miami as soon as feasible that portion of "the Graves tract" described in this paragraph as set forth with particularity in s. 1, chapter 85-201, Laws of Florida, along with that certain additional portion of "the Graves tract" described as follows: Commencing at the center of Section 21, Township 52S., Range 42E., Miami-Dade ~~Dade~~ County, Florida, run South 87°-38′-50″ West, 180.0 feet to the point of beginning of a parcel of land described as follows: run South 87°-38′-50″ West 804.17 feet to the east right-of-way line of State Road #5, thence run South 15°-20′-05″ West for a distance of 206.85 feet, thence run North 87°-45′-31″ East for a distance of 751.20 feet, thence run North 27°-50′-00″ East for a distance of 229.47 feet to the point of beginning, such parcel containing 3.89 acres more or less, except for that certain portion thereof which the Department of Transportation has reserved for right-of-way for transportation facilities.

2. Upon the recordation in the Official Records of Miami-Dade ~~Dade~~ County, Florida, by the Department of Transportation of a right-of-way map for State Road #5, which reserves a portion of the lands described in subparagraph 1., which said portion reserved is within, but smaller than, the portion reserved from the conveyance required by subparagraph 1. as accomplished by instrument recorded in page 30 of Official Record Book 14405 of the Official Records of Miami-Dade ~~Dade~~ County, Florida, as Deed No. 28289, pursuant to chapter 89-246, Laws of Florida, the Board of Trustees of the Internal Improvement Trust Fund shall convey and transfer to the City of North Miami as soon as feasible that additional portion of "the Graves tract" which consists of: Parcel No. 1, 'Interama Tract' Right-of-Way Reservation for State Road #5, together with Parcel No. 2, 'Interama Tract' Right-of-Way Reservation for State Road #5 as described in that certain instrument of conveyance referred to in this subparagraph as Deed No. 28289, less and except that certain portion of said Parcels No. 1 and No. 2 which is, after the effective date of this act, reserved for right-of-way for transportation facilities in a right-of-way map or like instrument hereafter filed and recorded by the Department of Transportation in the official records, so that the City of North Miami obtains title to those additional lands which are not necessary to be reserved for right-of-way for transportation facilities.

3. The City of North Miami shall not be required to pay any monetary consideration for the conveyances of land specified in this paragraph, since these conveyances are in mitigation of the loss sustained by the city upon dissolution of the Inter-American Center Authority pursuant to s. 1 of chapter 75-131, Laws of Florida.

(4) The Board of Trustees of the Internal Improvement Trust Fund may lease to Miami-Dade ~~Dade~~ County approximately 300 acres of land, and

approximately 90 acres of abutting lagoon and waterways, designated as the Primary Development Area, and may also transfer to Miami-Dade ~~Dade~~ County all or any part of the plans, drawings, maps, etc., of the Inter-American Center Authority existing at the date of transfer, provided Miami-Dade ~~Dade~~ County:

(a) Assumes responsibilities of the following agreements:

1. That certain agreement entered into on June 12, 1972, between the City of Miami and Inter-American Center Authority whereby the authority agreed to repurchase, with revenues derived from the net operating revenue of the project developed on the leased lands after expenses and debt service requirements, the approximately 93 acres of lands previously deeded to the City of Miami as security for repayment of the $8,500,000 owed by the authority to the City of Miami. Title to the land repurchased pursuant to the provisions of this subsection shall be conveyed to the State of Florida.

2. Those certain rights granted to the City of North Miami pursuant to the provisions of former s. 554.29(1)(a) and former s. 554.30 obligating the authority to issue a revenue bond to the City of North Miami, containing provisions to be determined by Miami-Dade ~~Dade~~ County, to be repaid from all ad valorem taxes, occupational license fees, franchise taxes, utility taxes, and cigarette taxes which would have accrued to the authority or the City of North Miami by nature of property owned by the authority having been in the City of North Miami and from the excess revenue after operating expenses, development cost and debt service requirements, of the project developed on the leased lands.

(b) Develops a plan for the use of the land that meets the approval of the Board of Trustees of the Internal Improvement Trust Fund or that meets the following purposes heretofore authorized:

1. To provide a permanent international center which will serve as a meeting ground for the governments and industries of the Western Hemisphere and of other areas of the world.

2. To facilitate broad and continuous exchanges of ideas, persons, and products through cultural, educational, and other exchanges.

3. By appropriate means, to promote mutual understanding between the peoples of the Western Hemisphere and to strengthen the ties which unite the United States with other nations of the free world.

Any property leased under this subsection shall not be leased for less than fair market value.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 46. Paragraph (g) of subsection (6) of section 253.034, Florida Statutes, is amended to read:

253.034 State-owned lands; uses.—

(6) The Board of Trustees of the Internal Improvement Trust Fund shall determine which lands, the title to which is vested in the board, may be surplused. For conservation lands, the board shall make a determination that the lands are no longer needed for conservation purposes and may dispose of them by an affirmative vote of at least three members. In the case of a land exchange involving the disposition of conservation lands, the board must determine by an affirmative vote of at least three members that the exchange will result in a net positive conservation benefit. For all other lands, the board shall make a determination that the lands are no longer needed and may dispose of them by an affirmative vote of at least three members.

(g) The sale price of lands determined to be surplus pursuant to this subsection shall be determined by the division and shall take into consideration an appraisal of the property, or, when the estimated value of the land is less than $100,000, a comparable sales analysis or a broker's opinion of value, and the price paid by the state to originally acquire the lands.

1.a. A written valuation of land determined to be surplus pursuant to this subsection, and related documents used to form the valuation or which pertain to the valuation, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until 2 weeks before the contract or agreement regarding the purchase, exchange, or disposal of the surplus land is first considered for approval by the board. Notwithstanding the exemption provided under this subparagraph, the division may disclose appraisals, valuations, or valuation information regarding surplus land during negotiations for the sale or exchange of the land, during the marketing effort or bidding process associated with the sale, disposal, or exchange of the land to facilitate closure of such effort or process, when the passage of time has made the conclusions of value invalid, or when negotiations or marketing efforts concerning the land are concluded.

b. This subparagraph is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15, and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

2. A unit of government that acquires title to lands hereunder for less than appraised value may not sell or transfer title to all or any portion of the lands to any private owner for a period of 10 years. Any unit of government seeking to transfer or sell lands pursuant to this paragraph shall first allow the board of trustees to reacquire such lands for the price at which the board sold such lands.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 47. Subsection (2) of section 257.38, Florida Statutes, is amended to read:

257.38 Manuscripts or other archival material held by local government; public records exemption.—

(2) Subsection (1) is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 48. Subsection (5) of section 258.001, Florida Statutes, is amended to read:

258.001 Park regions.—For the purpose of administering this chapter, regulating the public parks, monuments and memorials of this state, the state is divided into five park regions which are defined as:

(5) FIFTH REGION.—The Counties of Lee, Hendry, Palm Beach, Collier, Broward, Miami-Dade ~~Dade~~, and Monroe shall constitute the Fifth Park Region.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 49. Section 258.11, Florida Statutes, is amended to read:

258.11 Land ceded for Royal Palm State Park; proviso.—Section fifteen, and the north half of section twenty-two of township fifty-eight south, range thirty-seven east, situated in Miami-Dade ~~Dade~~ County, is ceded to the Florida Federation of Women's Clubs and designated as the "Royal Palm State Park," to be cared for, protected, and to remain in the full possession and enjoyment, with all the possessory rights and privileges thereunto, belonging to the Florida Federation of Women's Clubs, for the purpose of a state park, for the benefit and use of all the people of Florida, perpetually; provided, that the Florida Federation of Women's Clubs shall procure a deed to 960 acres of land in Miami-Dade ~~Dade~~ County, in the vicinity of said state park, suitable for agricultural purposes, conveying to said Florida Federation of Women's Clubs fee simple title thereto, said land to be used as an endowment for the perpetual use and benefit of the said park, its protection, improvement and the beautifying thereof, including the construction of roads and other improvements, either in kind or by the use of the rents and profits accruing therefrom, or the proceeds of sale thereof or any part of said endowment tract.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 50. Section 258.12, Florida Statutes, is amended to read:

258.12 Additional lands ceded for Royal Palm State Park.—For the use and benefit of all the people of the state, the state cedes to the Florida Federation of Women's Clubs the south half of section ten, southwest quarter of section eleven, west half of section fourteen, west half of section twenty-three, south half of section twenty-two, northwest quarter of section

twenty-seven, north half of section twenty-eight, and northeast quarter of section twenty-nine, township fifty-eight south, range thirty-seven east, situated in Miami-Dade ~~Dade~~ County, as additional acreage to "Royal Palm State Park," to be cared for and remain in the full possession and enjoyment of said Florida Federation of Women's Clubs, with all the possessory rights and privileges to the same belonging or in anywise appertaining; provided, that said land is granted to the said Florida Federation of Women's Clubs upon the express condition that said land and every part thereof shall be used as a state park for the use and benefit of all the people of Florida, and for no other purpose; and in the event said grantee shall permit or suffer the use of said land for any other purpose, or shall discontinue the use thereof for such purpose, such misuse or discontinuance shall operate as a defeasance and said land and every part thereof shall revert to the state.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 51. Section 258.39, Florida Statutes, is amended to read:

258.39 Boundaries of preserves.—The submerged lands included within the boundaries of Nassau, Duval, St. Johns, Flagler, Volusia, Brevard, Indian River, St. Lucie, Charlotte, Pinellas, Martin, Palm Beach, Miami-Dade ~~Dade~~, Monroe, Collier, Lee, Citrus, Franklin, Gulf, Bay, Okaloosa, Marion, Santa Rosa, Hernando, and Escambia Counties, as hereinafter described, with the exception of privately held submerged lands lying landward of established bulkheads and of privately held submerged lands within Monroe County where the establishment of bulkhead lines is not required, are hereby declared to be aquatic preserves. Such aquatic preserve areas include:

(1) The Fort Clinch State Park Aquatic Preserve, as described in the Official Records of Nassau County in Book 108, pages 343-346, and in Book 111, page 409.

(2) Nassau River-St. Johns River Marshes Aquatic Preserve, as described in the Official Records of Duval County in Volume 3183, pages 547-552, and in the Official Records of Nassau County in Book 108, pages 232-237.

(3) Pellicer Creek Aquatic Preserve, as described in the Official Records of St. Johns County in Book 181, pages 363-366, and in the Official Records of Flagler County in Book 33, pages 131-134.

(4) Tomoka Marsh Aquatic Preserve, as described in the Official Records of Flagler County in Book 33, pages 135-138, and in the Official Records of Volusia County in Book 1244, pages 615-618.

(5) Mosquito Lagoon Aquatic Preserve, as described in the Official Records of Volusia County in Book 1244, pages 619-623, and in the Official Records of Brevard County in Book 1143, pages 190-194.

(6) Banana River Aquatic Preserve, as described in the Official Records of Brevard County in Book 1143, pages 195-198, and the sovereignty submerged lands lying within the following described boundaries: BEGIN at the

intersection of the westerly ordinary high water line of Newfound Harbor with the North line of Section 12, Township 25 South, Range 36 East, Brevard County: Thence proceed northeasterly crossing Newfound Harbor to the intersection of the South line of Section 31, Township 24 South, Range 37 East, with the easterly ordinary high water line of said Newfound Harbor; thence proceed northerly along the easterly ordinary high water line of Newfound Harbor to its intersection with the easterly ordinary high water line of Sykes Creek; thence proceed northerly along the easterly ordinary high water line of said creek to its intersection with the southerly right-of-way of Hall Road; thence proceed westerly along said right-of-way to the westerly ordinary high water line of Sykes Creek; thence southerly along said ordinary high water line to its intersection with the ordinary high water line of Newfound Harbor; thence proceed southerly along the westerly ordinary high water line of Newfound Harbor to the POINT OF BEGINNING.

(7)(a) Indian River-Malabar to Vero Beach Aquatic Preserve, as described in the Official Records of Brevard County in Book 1143, pages 199-202, and in the Official Records of Indian River County in Book 368, pages 5-8 and the sovereignty submerged lands lying within the following described boundaries, excluding those lands contained within the corporate boundary of the City of Vero Beach as of the effective date of this act: Commence at the intersection of the north line of Section 31, Township 28 South, Range 38 East, and the westerly mean high water line of Indian River for a point of beginning; thence from the said point of beginning proceed northerly, westerly, and easterly along the mean high water line of Indian River and its navigable tributaries to an intersection with the north line of Section 24, Township 28 South, Range 37 East; thence proceed easterly, to a point on the easterly mean high water line of Indian River at its intersection with the north line of Section 20, Township 28 South, Range 38 East; thence proceed southerly, along the easterly mean high water line of Indian River to the most westerly tip of Blue Fish Point in said Section 20, thence proceed southwesterly to the intersection of the westerly mean high water line of Indian River with the north line of Section 31, Township 28 South, Range 38 East and the point of beginning: And also commence at the intersection of the northern Vero Beach city limits line in Section 25, Township 32 South, Range 39 East, and the westerly mean high water line of Indian River for the point of beginning: Thence from the said point of beginning proceed northerly, along the westerly mean high water line of Indian River and its navigable tributaries to an intersection with the south line of Section 14, Township 30 South, Range 38 East; thence proceed easterly, along the easterly projection of the south line of said Section 14, to an intersection with the easterly right-of-way line of the Intracoastal Waterway; thence proceed southerly, along the easterly right-of-way line of the Intracoastal Waterway, to an intersection with the northerly line of the Pelican Island National Wildlife Refuge; thence proceed easterly, along the northerly line of the Pelican Island National Wildlife Refuge, to an intersection with the easterly mean high water line of Indian River; thence proceed southerly along the easterly mean high water line of Indian River and its tributaries, to an intersection with the northern Vero Beach city limits line in Section 30, Township 32 South, Range 40 East; thence proceed westerly and southerly, along the northern Vero Beach city limits line to an intersection with the easterly mean high water line of Indian River and the point of beginning.

(b) For purposes of the Indian River-Malabar to Vero Beach Aquatic Preserve, a lease of sovereign submerged lands for a noncommercial dock may be deemed to be in the public interest when the noncommercial dock constitutes a reasonable exercise of riparian rights and is consistent with the preservation of the exceptional biological, aesthetic, or scientific values which the aquatic preserve was created to protect.

(8) Indian River-Vero Beach to Fort Pierce Aquatic Preserve, as described in the Official Records of Indian River County in Book 368, pages 9-12, and in the Official Records of St. Lucie County in Book 187, pages 1083-1086. More specifically, within that description, the southern corporate line of Vero Beach refers to the southerly corporate boundary line of Vero Beach as it existed on June 3, 1970, which is also a westerly projection of the south boundary of "Indian Bay" subdivision as recorded in Plat Book 3, page 43, Docket No. 59267, Public Records of Indian River County, and State Road A1A refers to State Road A1A, North Beach Causeway, located north of Fort Pierce Inlet.

(9) Jensen Beach to Jupiter Inlet Aquatic Preserve, as described in the Official Records of St. Lucie County in Book 218, pages 2865-2869. More specifically, within that description, the southerly corporate line of the City of Fort Pierce refers to the southerly corporate boundary line of the City of Fort Pierce as it existed in 1969; and the western boundary of the preserve as it crosses the St. Lucie River is more specifically described as a line which connects the intersection point of the westerly mean high-water line of the Indian River and the northerly mean high-water line of the St. Lucie River to the intersection point of the intersection of the westerly mean high-water line of the Intracoastal Waterway and the southerly mean high-water line of the St. Lucie River, lands within this preserve are more particularly described as lying and being in Sections 12, 13, 26, 35, and 36, Township 35 South, Range 40 East, and Sections 18, 19, 29, 30, and 32, Township 35 South, Range 41 East, and Sections 1 and 12, Township 36 South, Range 40 East, and Sections 5, 7, 8, 9, 16, 17, 18, 19, 20, 22, 27, 29, 32, and 34, Township 36 South, Range 41 East, and Sections 2, 3, 4, 9, 10, 11, 13, 14, 15, 22, 23, 24, 26, 35, and 36, Township 37 South, Range 41 East, and Sections 19, 30, 31, and 32, Township 37 South, Range 42 East, and Sections 1 and 12, Township 38 South, Range 41 East, and Sections 5, 6, 8, 16, 17, 19, 20, 21, 28, 29, 32, and 33, Township 38 South, Range 42 East, including the eastern portion of the Hanson Grant, east of Rocky Point Cove, and west of St. Lucie Inlet State Park, and portions of the Gomez Grant lying adjacent to Peck Lake and South Jupiter Narrows, and Sections 25, 26, 35, and 36, Township 39 South, Range 42 East, and Sections 1, 12, and 13, Township 40 South, Range 42 East, and Sections 7, 18, 19, 30, 31, and 32, Township 40 South, Range 43 East.

(10) Loxahatchee River-Lake Worth Creek Aquatic Preserve, as described in the Official Records of Martin County in Book 320, pages 193-196, and in the Official Records of Palm Beach County in Volume 1860, pages 806-809, and the sovereignty submerged lands lying within the following described boundaries: Begin at the intersection of the easterly mean high water line of the North Fork of the Loxahatchee River with the northerly

mean high water line of the Loxahatchee River, being in Section 36, Township 40 South, Range 43 East, Palm Beach County: Thence proceed easterly along the northerly mean high water line of the Loxahatchee River to the westerly right-of-way of U.S. Highway 1; thence proceed southerly along said right-of-way to the southerly mean high water line of said river; thence proceed easterly along the southerly mean high water line of said river to its intersection with the easterly mean high water line of the Lake Worth Creek; thence proceed northwesterly crossing the Loxahatchee River to the point of beginning: And also: Commence at the southwest corner of Section 16, Township 40 South, Range 42 East Martin County; thence proceed north along the west line of Section 16 to the mean high water line of the Loxahatchee River being the point of beginning: Thence proceed southerly along the easterly mean high water line of said river and its tributaries to a point of nonnavigability; thence proceed westerly to the westerly mean high water line of said river; thence proceed northerly along the westerly mean high water line of said river and its tributaries to its intersection with the westerly line of Section 16, Township 40 South, Range 42 East; thence proceed southerly along the said westerly section line to the point of beginning: And also begin where the southerly mean high water line of the Southwest Fork of the Loxahatchee River intersects the westerly line of Section 35, Township 40 South, Range 42 East: Thence proceed southwesterly along the southerly mean high water line of the Southwest Fork to the northeasterly face of structure #46; thence proceed northwesterly along the face of said structure to the northerly mean high water line of the Southwest Fork; thence proceed northeasterly along said mean high water line to its intersection with the westerly line of Section 35, Township 40 South, Range 42 East; thence proceed southerly along westerly line of said section to the point of beginning.

(11) Biscayne Bay-Cape Florida to Monroe County Line Aquatic Preserve, as described in the Official Records of Miami-Dade ~~Dade~~ County in Book 7055, pages 852-856, less, however, those lands and waters as described in s. 258.397.

(12) North Fork, St. Lucie Aquatic Preserve, as described in the Official Records of Martin County in Book 337, pages 2159-2162, and in the Official Records of St. Lucie County in Book 201, pages 1676-1679.

(13) Yellow River Marsh Aquatic Preserve, as described in the Official Records of Santa Rosa County in Book 206, pages 568-571.

(14) Fort Pickens State Park Aquatic Preserve, as described in the Official Records of Santa Rosa County in Book 220, pages 60-63, and in the Official Records of Escambia County in Book 518, pages 659-662.

(15) Rocky Bayou State Park Aquatic Preserve, as described in the Official Records of Okaloosa County in Book 593, pages 742-745.

(16) St. Andrews State Park Aquatic Preserve, as described in the Official Records of Bay County in Book 379, pages 547-550.

(17) St. Joseph Bay Aquatic Preserve, as described in the Official Records of Gulf County in Book 46, pages 73-76.

(18) Apalachicola Bay Aquatic Preserve, as described in the Official Records of Gulf County in Book 46, pages 77-81, and in the Official Records of Franklin County in Volume 98, pages 102-106.

(19) Alligator Harbor Aquatic Preserve, as described in the Official Records of Franklin County in Volume 98, pages 82-85.

(20) St. Martins Marsh Aquatic Preserve, as described in the Official Records of Citrus County in Book 276, pages 238-241.

(21) Matlacha Pass Aquatic Preserve, as described in the Official Records of Lee County in Book 800, pages 725-728.

(22) Pine Island Sound Aquatic Preserve, as described in the Official Records of Lee County in Book 648, pages 732-736.

(23) Cape Romano-Ten Thousand Islands Aquatic Preserve, as described in the Official Records of Collier County in Book 381, pages 298-301.

(24) Lignumvitae Key Aquatic Preserve, as described in the Official Records of Monroe County in Book 502, pages 139-142.

(25) Coupon Bight Aquatic Preserve, as described in the Official Records of Monroe County in Book 502, pages 143-146.

(26) Lake Jackson Aquatic Preserve, as established by chapter 73-534, Laws of Florida, and defined as authorized by law.

(27) Pinellas County Aquatic Preserve, as established by chapter 72-663, Laws of Florida; Boca Ciega Aquatic Preserve, as established by s. 258.396; and the Biscayne Bay Aquatic Preserve, as established by s. 258.397. If any provision of this act is in conflict with an aquatic preserve established by s. 258.396, chapter 72-663, Laws of Florida, or s. 258.397, the stronger provision for the maintenance of the aquatic preserve shall prevail.

(28) Estero Bay Aquatic Preserve, the boundaries of which are generally: All of those sovereignty submerged lands located bayward of the mean high-water line being in Sections 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 35, and 36, Township 46 South, Range 24 East; and in Sections 19, 20, 28, 29, and 34, Township 46 South, Range 24 East, lying north and east of Matanzas Pass Channel; and in Sections 19, 30, and 31, Township 46 South, Range 25 East; and in Sections 6, 7, 17, 18, 19, 20, 29, 30, 31, and 32, Township 47 South, Range 25 East; and in Sections 1, 2, 3, 11, 12, 13, 14, 24, and 25, Township 47 South, Range 24 East, in Lee County, Florida. Any and all submerged lands conveyed by the Trustees of the Internal Improvement Trust Fund prior to October 12, 1966, and any and all uplands now in private ownership are specifically exempted from this preserve.

(29) Cape Haze Aquatic Preserve, the boundaries of which are generally: That part of Gasparilla Sound, Catfish Creek, Whiddon Creek, "The Cutoff," Turtle Bay, and Charlotte Harbor lying within the following described limits: Northerly limits: Commence at the northwest corner of Section 18, Township 42 South, Range 21 East, thence south along the west line of said

Section 18 to its intersection with the Government Meander Line of 1843-1844, and the point of beginning, thence southeasterly along said meander line to the northwesterly shoreline of Catfish Creek, thence northeasterly along said shoreline to the north line of said Section 18, thence east along said north line to the easterly shoreline of Catfish Creek, thence southeasterly along said shoreline to the east line of said Section 18, thence south along said east line, crossing an arm of said Catfish Creek to the southerly shoreline of said creek, thence westerly along said southerly shoreline and southerly along the easterly shoreline of Catfish Creek to said Government Meander Line, thence easterly and southeasterly along said meander line to the northerly shoreline of Gasparilla Sound in Section 21, Township 42 South, Range 21 East, thence easterly along said northerly shoreline and northeasterly along the westerly shoreline of Whiddon Creek to the east west quarter line in Section 16, Township 42 South, Range 21 East, thence east along said quarter line and the quarter Section line of Section 15, Township 42 South, Range 21 East to the easterly shoreline of Whiddon Creek, thence southerly along said shoreline to the northerly shoreline of "The Cutoff," thence easterly along said shoreline to the westerly shoreline of Turtle Bay, thence northeasterly along said shoreline to its intersection with said Government Meander Line in Section 23, Township 42 South, Range 21 East, thence northeasterly along said meander line to the east line of Section 12, Township 42 South, Range 21 East, thence north along the east line of said Section 12, and the east line of Section 1, Township 42 South, Range 21 East to the northwest corner of Section 6, Township 42 South, Range 22 East, thence east along the north line and extension thereof of said Section 6 to a point 2,640 feet east of the westerly shoreline of Charlotte Harbor and the end of the northerly limits. Easterly limits: Commence at the northwest corner of Section 6, Township 42 South, Range 22 East, thence east along the north line of said Section 6 and extension thereof to a point 2,640 feet east of the westerly shoreline of Charlotte Harbor and the point of beginning, thence southerly along a line 2,640 feet easterly of and parallel with the westerly shoreline of Charlotte Harbor and along a southerly extension of said line to the line dividing Charlotte and Lee Counties and the end of the easterly limits. Southerly limits: Begin at the point of ending of the easterly limits, above described, said point being in the line dividing Charlotte and Lee Counties, thence southwesterly along a straight line to the most southerly point of Devil Fish Key, thence continue along said line to the easterly right-of-way of the Intracoastal Waterway and the end of the southerly limits. Westerly limits: Begin at the point of ending of the southerly limits as described above, thence northerly along the easterly right-of-way line of the Intracoastal Waterway to its intersection with a southerly extension of the west line of Section 18, Township 42 South, Range 21 East, thence north along said line to point of beginning.

(30) Wekiva River Aquatic Preserve, the boundaries of which are generally: All the state-owned sovereignty lands lying waterward of the ordinary high-water mark of the Wekiva River and the Little Wekiva River and their tributaries lying and being in Lake, Seminole, and Orange counties and more particularly described as follows:

(a) In Sections 15, 16, 17, 20, 21, 22, 27, 28, 29, and 30, Township 20 South, Range 29 East. These sections are also depicted on the Forest City Quadrangle (U.S.G.S. 7.5 minute series-topographic) 1959 (70PR); and

(b) In Sections 3, 4, 8, 9, and 10, Township 20 South, Range 29 East and in Sections 21, 28, and 33, Township 19 South, Range 29 East lying north of the right-of-way for the Atlantic Coast Line Railroad and that part of Section 33, Township 19 South, Range 29 East lying between the Lake and Orange County lines and the right-of-way of the Atlantic Coast Line Railroad. These sections are also depicted on the Sanford SW Quadrangle (U.S.G.S. 7.5 minute series-topographic) 1965 (70-1); and

(c) All state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high-water mark of the Wekiva River and the Little Wekiva and their tributaries within the Peter Miranda Grant in Lake County lying below the 10 foot m.s.l. contour line nearest the meander line of the Wekiva River and all state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high-water mark of the Wekiva River and the Little Wekiva and their tributaries within the Moses E. Levy Grant in Lake County below the 10 foot m.s.l. contour line nearest the meander lines of the Wekiva River and Black Water Creek as depicted on the PINE LAKES 1962 (70-1), ORANGE CITY 1964 (70PR), SANFORD 1965 (70-1), and SANFORD S.W. 1965 (70-1) QUADRANGLES (U.S.G.S. 7.5 minute topographic); and

(d) All state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high-water mark of the Wekiva River and the Little Wekiva River and their tributaries lying below the 10 foot m.s.l. contour line nearest the meander line of the Wekiva and St. Johns Rivers as shown on the ORANGE CITY 1964 (70PR), SANFORD 1965 (70-1), and SANFORD S.W. 1965 (70-1) QUADRANGLES (U.S.G.S. 7.5 minute topographic) within the following described property: Beginning at a point on the south boundary of the Moses E. Levy Grant, Township 19 South, Range 29 East, at its intersection with the meander line of the Wekiva River; thence south 60½ degrees east along said boundary line 4,915.68 feet; thence north 29½ degrees east 15,516.5 feet to the meander line of the St. Johns River; thence northerly along the meander line of the St. Johns River to the mouth of the Wekiva River; thence southerly along the meander line of the Wekiva River to the beginning; and

(e) All state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high-water mark of the Wekiva River and the Little Wekiva River and their tributaries within the Peter Miranda Grant lying east of the Wekiva River, less the following:

1. State Road 46 and all land lying south of said State Road No. 46.

2. Beginning 15.56 chains West of the Southeast corner of the SW ¼ of the NE ¼ of Section 21, Township 19 South, Range 29 East, run east 600 feet; thence north 960 feet; thence west 340 feet to the Wekiva River; thence southwesterly along said Wekiva River to point of beginning.

3. That part of the east ¼ of the SW ¼ of Section 22, Township 19 South, Range 29 East, lying within the Peter Miranda Grant east of the Wekiva River.

(f) All the sovereignty submerged lands lying within the following described boundaries: Begin at the intersection of State Road 44 and the westerly ordinary high water line of the St. Johns River, Section 22, Township 17 South, Range 29 East, Lake County: Thence proceed southerly along the westerly ordinary high water line of said river and its tributaries to the intersection of the northerly right-of-way of State Road 400; thence proceed northeasterly along said right-of-way to the easterly ordinary high water line of the St. Johns River; thence proceed northerly along said ordinary high water line of the St. Johns River and its tributaries to its intersection with the easterly ordinary high water line of Lake Beresford; thence proceed northerly along the ordinary high water line of said lake to its intersection with the westerly line of Section 24, Township 17 South, Range 29 East; thence proceed northerly to the southerly right-of-way of West New York Avenue; thence proceed westerly along the southerly right-of-way of said avenue to its intersection with the southerly right-of-way line of State Road 44; thence proceed southwesterly along said right-of-way to the point of beginning.

(31) Rookery Bay Aquatic Preserve, the boundaries of which are generally: All of the state-owned sovereignty lands lying waterward of the mean high-water line in Rookery Bay and in Henderson Creek and the tributaries thereto in Collier County, Florida. Said lands are more particularly described as lying and being in Sections 27, 34, 35, and 36, Township 50 South, Range 25 East; in Section 31, Township 50 South, Range 26 East; in Sections 1, 2, 3, 10, 11, 12, 13, 14, 23, 24, and 25, Township 51 South, Range 25 East; and in Sections 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 30, and 31, Township 51 South, Range 26 East, Collier County, Florida, and all the sovereignty submerged lands lying within the following described boundaries: Begin at the southwest corner of Section 30, Township 52 South, Range 27 East, Collier County: Thence proceed easterly along the southerly line of said Section 30 to the southwest corner of Section 29, Township 52 South, Range 27 East; proceed thence northerly along the westerly lines of Sections 29, 20 and 17 to the northwest corner of said Section 17; thence proceed westerly along the northerly line of Section 18 to the southeast corner of Section 12, Township 52 South, Range 26 East; thence proceed northerly along the easterly lines of Sections 12, 1, 36 and 25 to the northeast corner of said Section 25, Township 51 South, Range 26 East; thence proceed westerly along the northerly lines of Sections 25 and 26 to the northwest corner of said Section 26; thence proceed northerly to northeast corner of said Section 22; thence proceed westerly along the northerly lines of Sections 22 and 21 to the northwest corner of said Section 21; thence proceed southerly to the southwest corner of said Section 21; thence proceed westerly along the northerly line of Section 29 to the northwest corner thereof; thence proceed southerly along the westerly lines of Sections 29 and 32 to the southwest corner of said Section 32; thence proceed westerly to the northwest corner of Section 6, Township 52 South, Range 26 East; thence proceed southerly along a projection of Range line 25 East to its intersection with a line which runs westerly from the southwest corner of Cape Romano - Ten Thousand Islands Aquatic Preserve; thence proceed easterly to the southwest corner of Cape Romano - Ten Thousand Islands Aquatic Preserve; thence proceed northerly to the point of beginning. Less and except: Begin at the southeast corner of Section 21, Township 52 South, Range 26 East; thence proceed

northerly along the easterly lines of Sections 21 and 16 to the northeast corner of said Section 16, thence proceed northerly to the thread of John Stevens Creek; thence proceed northwesterly along the thread of said creek to its intersection with the thread of Marco River; thence proceed northwesterly and westerly along the thread of said river to its intersection with the thread of Big Marco Pass; thence proceed southwesterly along the thread of Big Marco Pass to its intersection with Range line 25 East; thence proceed southerly along Range line 25 East to a point which is west from the point of beginning: Thence proceed easterly to the point of beginning.

(32) Rainbow Springs Aquatic Preserve, the boundaries of which are generally: Commencing at the intersection of Blue Run with the Withlacoochee River in Section 35, Township 16 South, Range 18 East; thence run southeasterly and easterly along said Blue Run to the east boundary of said Section 35; thence continue easterly and northerly along said Blue Run through Section 36, Township 16 South, Range 18 East, to the north boundary of said Section 36; thence continue northerly and northeasterly along said Blue Run in Section 25, Township 16 South, Range 18 East, to the north boundary of the city limits of Dunnellon, Florida; thence from the north boundary of the city limits of Dunnellon, Florida, in Section 25, Township 16 South, Range 18 East; thence run easterly along said Blue Run to its intersection with the east boundary line of said Section 25; thence continue easterly along said Rainbow River (Blue Run) into Section 30, Township 16 South, Range 19 East, thence northerly along said Rainbow River (Blue Run) through Sections 30 and 19, Township 16 South, Range 19 East, to a point on the north boundary of the northwest ¼ of Section 18; thence continue to run northwesterly to the head of Rainbow Springs in Section 12, Township 16 South, Range 18 East.

Any and all submerged lands theretofore conveyed by the Trustees of the Internal Improvement Trust Fund and any and all uplands now in private ownership are specifically exempted from this dedication.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 52. Subsection (1), paragraph (a) of subsection (2), paragraph (e) of subsection (3), and subsections (6) and (7) of section 258.397, Florida Statutes, are amended to read:

258.397 Biscayne Bay Aquatic Preserve.—

(1) DESIGNATION.—Biscayne Bay in Miami-Dade ~~Dade~~ and Monroe Counties, as hereinafter described to include Card Sound, is designated and established as an aquatic preserve under the provisions of this section. It is the intent of the Legislature that Biscayne Bay be preserved in an essentially natural condition so that its biological and aesthetic values may endure for the enjoyment of future generations.

(2) BOUNDARIES.—

(a) For the purposes of this section, Biscayne Bay, sometimes referred to in this section as "the preserve," shall be comprised of the body of water in

Miami-Dade ~~Dade~~ and Monroe Counties known as Biscayne Bay whose boundaries are generally defined as follows:

Begin at the southwest intersection of the right-of-way of State Road 826 and the mean high-water line of Biscayne Bay (Township 52 South, Range 42 East, Miami-Dade ~~Dade~~ County); thence southerly along the westerly mean high-water line of Biscayne Bay to its intersection with the right-of-way of State Road 905A (Township 59 South, Range 40 East, Monroe County); thence easterly along such right-of-way to the easterly mean high-water line of Biscayne Bay; thence northerly along the easterly mean high-water line of Biscayne Bay following the westerly shores of the most easterly islands and Keys with connecting lines drawn between the closest points of adjacent islands to the southeasterly intersection of the right-of-way of State Road 826 and the mean high-water line of Biscayne Bay; thence westerly to the point of beginning. Said boundary extends across the mouths of all artificial waterways, but includes all natural waterways tidally connected to Biscayne Bay. Excluded from the preserve are those submerged lands conveyed to the United States for the establishment of the Biscayne National Monument as defined by Pub. L. No. 90-606 of the United States.

(3) AUTHORITY OF TRUSTEES.—The Board of Trustees of the Internal Improvement Trust Fund is authorized and directed to maintain the aquatic preserve hereby created pursuant and subject to the following provisions:

(e) Notwithstanding other provisions of this section, the board of trustees may, respecting lands lying within Biscayne Bay:

1. Enter into agreements for and establish lines delineating sovereignty and privately owned lands.

2. Enter into agreements for the exchange of, and exchange, sovereignty lands for privately owned lands.

3. Accept gifts of land within or contiguous to the preserve.

4. Negotiate for, and enter into agreements with owners of lands contiguous to sovereignty lands for, any public and private use of any of such lands.

5. Take any and all actions convenient for, or necessary to, the accomplishment of any and all of the acts and matters authorized by this paragraph.

6. Conduct restoration and enhancement efforts in Biscayne Bay and its tributaries.

7. Stabilize eroding shorelines of Biscayne Bay and its tributaries that are contributing to turbidity by planting natural vegetation to the greatest extent feasible and by the placement of riprap, as determined by Miami-Dade ~~Dade~~ County in conjunction with the Department of Environmental Protection.

8. Request the South Florida Water Management District to enter into a memorandum of understanding with the Department of Environmental

Protection, the Biscayne National Park Service, the Miami-Dade ~~Metro-Dade~~ County Department of Environmental Resources Management and, at their option, the Corps of Engineers to include enhanced marine productivity in Biscayne Bay as an objective when operating the Central and Southern Florida Flood Control projects consistently with the goals of the water management district, including flood protection, water supply, and environmental protection.

(6) DISCHARGE OF WASTES PROHIBITED.—No wastes or effluents which substantially inhibit the accomplishment of the purposes of this section shall be discharged into the preserve. In order to ensure that these objectives are met, the following shall be required:

(a) The Department of Environmental Protection, in cooperation with the South Florida Water Management District and Miami-Dade ~~Dade~~ County, shall investigate stormwater management practices within the watershed and shall develop a corrective plan for management and treatment of stormwater. The plan shall provide for retrofitting of stormwater outfalls causing the greatest environmental damage to the bay.

(b) The Department of Environmental Protection, in cooperation with Miami-Dade ~~Dade~~ County, shall develop a program to regulate the use of pumpout facilities in the Biscayne Bay area and along the Miami River.

(c) The Department of Environmental Protection, in cooperation with Miami-Dade ~~Dade~~ County, shall develop a program to eliminate, to the greatest extent possible, the discharge of oil and other pollutants from ships and to remove derelict vessels from the Miami River and the Biscayne Bay area.

(7) ENFORCEMENT.—The provisions of this section may be enforced in accordance with the provisions of s. 403.412. In addition, the Department of Legal Affairs is authorized to bring an action for civil penalties of $5,000 per day against any person, natural or corporate, who violates the provisions of this section or any rule or regulation issued hereunder. Enforcement of applicable state regulations shall be supplemented by the Miami-Dade ~~Metro-Dade~~ County Department of Environmental Resources Management through the creation of a full-time enforcement presence along the Miami River.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code and the current name of the Miami-Dade County Department of Environmental Resources Management.

Section 53. Section 286.0111, Florida Statutes, is amended to read:

286.0111 Legislative review of certain exemptions from requirements for public meetings and recordkeeping by governmental entities.—The provisions of s. 119.15, the Open Government Sunset Review Act ~~of 1995~~, apply to the provisions of law which provide exemptions to s. 286.011, as provided in s. 119.15.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 54. Paragraph (e) of subsection (2) of section 288.0655, Florida Statutes, is amended to read:

288.0655 Rural Infrastructure Fund.—

(2)

(e) To enable local governments to access the resources available pursuant to s. 403.973(18) ~~403.973(19)~~, the office may award grants for surveys, feasibility studies, and other activities related to the identification and preclearance review of land which is suitable for preclearance review. Authorized grants under this paragraph shall not exceed $75,000 each, except in the case of a project in a rural area of critical economic concern, in which case the grant shall not exceed $300,000. Any funds awarded under this paragraph must be matched at a level of 50 percent with local funds, except that any funds awarded for a project in a rural area of critical economic concern must be matched at a level of 33 percent with local funds. In evaluating applications under this paragraph, the office shall consider the extent to which the application seeks to minimize administrative and consultant expenses.

Reviser's note.—Amended to conform to the repeal of s. 403.973(4) by s. 23, ch. 2007-105, Laws of Florida.

Section 55. Paragraph (b) of subsection (2) of section 288.1223, Florida Statutes, is amended to read:

288.1223 Florida Commission on Tourism; creation; purpose; membership.—

(2)

(b) When making the 17 general tourism-industry-related appointments to the commission, the Governor shall appoint persons who are residents of the state, recognized tourism leaders, including, but not limited to, representatives of tourist development councils, convention and visitor bureaus, and associations, and chairs of the board, presidents, chief executive officers, chief operating officers, or persons of comparable executive level or influence of leading or otherwise important tourism industries. Consideration shall be given to appointing members who represent those tourist-related lodging, retail, attraction, and transportation industries which contribute significantly to the promotion of Florida as a tourist destination from their private budgets and publicly through their voluntary tourism promotion investment contributions. Minority persons, as defined in s. 288.703, shall be included in the appointments to the commission and to any advisory committee appointed by the commission, so that the commission and advisory committees are broadly representative of the population of Florida. In addition, members shall be appointed in such a manner as to equitably represent all geographic areas of the state, with no fewer than two and no more than four members from any of the following regions:

1. Region 1, composed of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton, and Washington Counties.

2. Region 2, composed of Alachua, Baker, Bradford, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Madison, Marion, Nassau, Putnam, St. Johns, Suwannee, Taylor, and Union Counties.

3. Region 3, composed of Brevard, Indian River, Lake, Okeechobee, Orange, Osceola, St. Lucie, Seminole, Sumter, and Volusia Counties.

4. Region 4, composed of Citrus, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties.

5. Region 5, composed of Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, and Lee Counties.

6. Region 6, composed of Broward, ~~Dade,~~ Martin, Miami-Dade, Monroe, and Palm Beach Counties.

No more than one member may be an employee of any one company, organization, council, or bureau.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 56. Paragraph (e) of subsection (1) and paragraph (d) of subsection (4) of section 288.1254, Florida Statutes, are amended to read:

288.1254 Entertainment industry financial incentive program.—

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

(e) "Production" means a theatrical or direct-to-video motion picture; a made-for-television motion picture; a commercial; a music video; an industrial or educational film; an infomercial; a documentary film; a television pilot program; a presentation for a television pilot program; a television series, including, but not limited to, a drama, a reality show, a comedy, a soap opera, a telenovela, a game show, or a miniseries production; or a digital media project by the entertainment industry. One season of a television series is considered one production. The term excludes a weather or market program; a sporting event; a sports show; a gala; a production that solicits funds; a home shopping program; a political program; a political documentary; political advertising; a gambling-related project or production; a concert production; a pornographic production; or a local, regional, or Internet-distributed-only news show, current-events show, pornographic production, or current-affairs show. A production may be produced on or by film, tape, or otherwise by means of a motion picture camera; electronic camera or device; tape device; computer; any combination of the foregoing; or any other means, method, or device now used or later adopted.

(4) PRIORITY FOR INCENTIVE FUNDING; WITHDRAWAL OF ELIGIBILITY; QUEUES.—

(d) Digital media projects queue.—Ten percent of incentive funding appropriated in any state fiscal year shall be dedicated to the digital media projects queue. A production certified under this queue is eligible for a reimbursement equal to 10 percent of ~~if~~ its actual qualified expenditures. A qualified production that is a digital media project that demonstrates a minimum of $300,000 in total qualified expenditures is eligible for a maximum of $1 million in incentive funding. As used in this paragraph, the term "qualified expenditures" means the wages or salaries paid to a resident of this state for working on a single qualified digital media project, up to a maximum of $200,000 in wages or salaries paid per resident. A qualified production company producing digital media projects may not qualify for more than three projects in any 1 fiscal year. Projects that extend beyond a fiscal year must reapply each fiscal year in order to be eligible for incentive funding for that year.

Reviser's note.—Paragraph (1)(e) is amended to confirm the editorial insertion of the word "or" after the word "show" to improve clarity and facilitate correct interpretation. Paragraph (4)(d) is amended to confirm the editorial substitution of the word "of" for the word "if" to correct a typographical error.

Section 57. Paragraphs (a) and (g) of subsection (5) of section 288.8175, Florida Statutes, are amended to read:

288.8175 Linkage institutes between postsecondary institutions in this state and foreign countries.—

(5) The institutes are:

(a) Florida-Brazil Institute (University of Florida and Miami Dade ~~Miami-Dade Community~~ College).

(g) Florida-France Institute (New College of the University of South Florida, Miami Dade ~~Miami-Dade Community~~ College, and Florida State University).

Reviser's note.—Amended to conform to the correct name of Miami Dade College.

Section 58. Subsection (7) of section 288.9015, Florida Statutes, is repealed.

Reviser's note.—The referenced subsection, which relates to Enterprise Florida, Inc., working with the Department of Education and Workforce Florida, Inc., in designating districts to participate in the CHOICE project under repealed s. 1003.494, has served its purpose.

Section 59. 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)(h) and (7) ~~14.2015(2)(i) 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 confirm the editorial substitution of a reference to s. 14.2015(2)(h) and (7) for a reference to s. 14.2015(2)(i) and (7). Material concerning contracts between Enterprise Florida, Inc., and the Office of Tourism, Trade, and Economic Development is covered in s. 14.2015(2)(h) and (7).

Section 60. Subsection (8) of section 288.9551, Florida Statutes, is amended to read:

288.9551 Exemptions from public records and meetings requirements; Scripps Florida Funding Corporation, The Scripps Research Institute or grantee, and the Office of Tourism, Trade, and Economic Development.—

(8) This section is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 61. Subsection (5) and paragraph (d) of subsection (12) of section 288.975, Florida Statutes, are amended to read:

288.975 Military base reuse plans.—

(5) At the discretion of the host local government, the provisions of this act may be complied with through the adoption of the military base reuse plan as a separate component of the local government comprehensive plan or through simultaneous amendments to all pertinent portions of the local government comprehensive plan. Once adopted and approved in accordance with this section, the military base reuse plan shall be considered to be part of the host local government's comprehensive plan and shall be thereafter implemented, amended, and reviewed in accordance with the provisions of part II of chapter 163. Local government comprehensive plan amendments necessary to initially adopt the military base reuse plan shall be exempt from the limitation on the frequency of plan amendments contained in s. 163.3187(1) ~~163.3187(2)~~.

(12) Following receipt of a petition, the petitioning party or parties and the host local government shall seek resolution of the issues in dispute. The issues in dispute shall be resolved as follows:

(d) Within 45 days after receiving the report from the state land planning agency, the Administration Commission shall take action to resolve the issues in dispute. In deciding upon a proper resolution, the Administration Commission shall consider the nature of the issues in dispute, any requests for a formal administrative hearing pursuant to chapter 120, the compliance of the parties with this section, the extent of the conflict between the parties, the comparative hardships and the public interest involved. If the Administration Commission incorporates in its final order a term or condition that requires any local government to amend its local government comprehensive plan, the local government shall amend its plan within 60 days after the issuance of the order. Such amendment or amendments shall be exempt from the limitation of the frequency of plan amendments contained in s. 163.3187(1) ~~163.3187(2)~~, and a public hearing on such amendment or amendments pursuant to s. 163.3184(15)(b)1. shall not be required. The final order of the Administration Commission is subject to appeal pursuant to s. 120.68. If the order of the Administration Commission is appealed, the time for the local government to amend its plan shall be tolled during the pendency of any local, state, or federal administrative or judicial proceeding relating to the military base reuse plan.

Reviser's note.—Amended to substitute a reference to s. 163.3187(1), which relates to frequency of plan amendments, for a reference to s. 163.3187(2), which relates to amendments to preserve the internal consistency of the plan.

Section 62. Subsection (69) of section 316.003, Florida Statutes, is amended to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(69) HAZARDOUS MATERIAL.—Any substance or material which has been determined by the secretary of the United States Department of Transportation to be capable of imposing an unreasonable risk to health, safety, and property. This term includes hazardous waste as defined in s. 403.703(13) ~~403.703(21)~~.

Reviser's note.—Amended to conform to the relocation of the referenced definition by the substantial rewording of s. 403.703 by s. 6, ch. 2007-184, Laws of Florida.

Section 63. Paragraph (a) of subsection (8) of section 320.0805, Florida Statutes, is amended to read:

320.0805 Personalized prestige license plates.—

(8)(a) Personalized prestige license plates shall consist of three ~~four~~ types of plates as follows:

1. A plate imprinted with numerals only. Such plates shall consist of numerals from 1 to 999, inclusive.

2. A plate imprinted with capital letters only. Such plates shall consist of capital letters "A" through "Z" and shall be limited to a total of seven of the same or different capital letters. A hyphen may be added in addition to the seven letters.

3. A plate imprinted with both capital letters and numerals. Such plates shall consist of no more than a total of seven characters, including both numerals and capital letters, in any combination, except that a hyphen may be added in addition to the seven characters if desired or needed. However, on those plates issued to, and bearing the names of, organizations, the letters and numerals shall be of such size, if necessary, as to accommodate a maximum of 18 digits for automobiles, trucks, and recreational vehicles and 7 digits for motorcycles. Plates consisting of the four capital letters "PRES" preceded or followed by a hyphen and numerals of 1 to 999 shall be reserved for issuance only to applicants who qualify as members of the press and who are associated with, or are employees of, the reporting media.

Reviser's note.—Amended to conform to the deletion of subparagraph (8)(a)4. by s. 20, ch. 96-413, Laws of Florida.

Section 64. Paragraph (a) of subsection (9) of section 322.34, Florida Statutes, is amended to read:

322.34 Driving while license suspended, revoked, canceled, or disqualified.—

(9)(a) A motor vehicle that is driven by a person under the influence of alcohol or drugs in violation of s. 316.193 is subject to seizure and forfeiture under ss. 932.701-932.706 ~~932.701-932.707~~ and is subject to liens for recovering, towing, or storing vehicles under s. 713.78 if, at the time of the offense, the person's driver's license is suspended, revoked, or canceled as a result of a prior conviction for driving under the influence.

Reviser's note.—Amended to conform to the repeal of s. 932.707 by s. 21, ch. 2006-176, Laws of Florida.

Section 65. Paragraph (a) of subsection (4) of section 323.001, Florida Statutes, is amended to read:

323.001 Wrecker operator storage facilities; vehicle holds.—

(4) The requirements for a written hold apply when the following conditions are present:

(a) The officer has probable cause to believe the vehicle should be seized and forfeited under the Florida Contraband Forfeiture Act, ss. 932.701-932.706 ~~932.701-932.707~~;

Reviser's note.—Amended to conform to the repeal of s. 932.707 by s. 21, ch. 2006-176, Laws of Florida.

Section 66. Paragraph (b) of subsection (3) of section 328.07, Florida Statutes, is amended to read:

328.07 Hull identification number required.—

(3)

(b) If any of the hull identification numbers required by the United States Coast Guard for a vessel manufactured after October 31, 1972, do not exist or have been altered, removed, destroyed, covered, or defaced or the real identity of the vessel cannot be determined, the vessel may be seized as contraband property by a law enforcement agency or the division, and shall be subject to forfeiture pursuant to ss. 932.701-932.706 ~~932.701-932.707~~. Such vessel may not be sold or operated on the waters of the state unless the division receives a request from a law enforcement agency providing adequate documentation or is directed by written order of a court of competent jurisdiction to issue to the vessel a replacement hull identification number which shall thereafter be used for identification purposes. No vessel shall be forfeited under the Florida Contraband Forfeiture Act when the owner unknowingly, inadvertently, or neglectfully altered, removed, destroyed, covered, or defaced the vessel hull identification number.

Reviser's note.—Amended to conform to the repeal of s. 932.707 by s. 21, ch. 2006-176, Laws of Florida.

Section 67. Subsection (4) of section 337.0261, Florida Statutes, is amended to read:

337.0261 Construction aggregate materials.—

(4) EXPEDITED PERMITTING.—Due to the state's critical infrastructure needs and the potential shortfall in available construction aggregate materials, limerock environmental resource permitting and reclamation applications filed after March 1, 2007, are eligible for the expedited permitting processes contained in s. 403.973. Challenges to state agency action in the expedited permitting process for establishment of a limerock mine in this state under s. 403.973 are subject to the same requirements as challenges brought under s. 403.973(14)(a) ~~403.973(15)(a)~~, except that, notwithstanding s. 120.574, summary proceedings must be conducted within 30 days after a party files the motion for summary hearing, regardless of whether the parties agree to the summary proceeding.

Reviser's note.—Amended to conform to the repeal of s. 403.973(4) by s. 23, ch. 2007-105, Laws of Florida.

Section 68. Section 338.165, Florida Statutes, is reenacted to read:

338.165 Continuation of tolls.—

(1) The department, any transportation or expressway authority or, in the absence of an authority, a county or counties may continue to collect the toll on a revenue-producing project after the discharge of any bond indebtedness related to such project and may increase such toll. All tolls so collected shall first be used to pay the annual cost of the operation, maintenance, and improvement of the toll project.

(2) If the revenue-producing project is on the State Highway System, any remaining toll revenue shall be used for the construction, maintenance, or improvement of any road on the State Highway System within the county or counties in which the revenue-producing project is located, except as provided in s. 348.0004.

(3) Notwithstanding any other provision of law, the department, including the turnpike enterprise, shall index toll rates on existing toll facilities to the annual Consumer Price Index or similar inflation indicators. Toll rate adjustments for inflation under this subsection may be made no more frequently than once a year and must be made no less frequently than once every 5 years as necessary to accommodate cash toll rate schedules. Toll rates may be increased beyond these limits as directed by bond documents, covenants, or governing body authorization or pursuant to department administrative rule.

(4) Notwithstanding any other law to the contrary, pursuant to s. 11, Art. VII of the State Constitution, and subject to the requirements of subsection (2), the Department of Transportation may request the Division of Bond Finance to issue bonds secured by toll revenues collected on the Alligator Alley, the Sunshine Skyway Bridge, the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway to fund transportation projects located within the county or counties in which the project is located and contained in the adopted work program of the department.

(5) If the revenue-producing project is on the county road system, any remaining toll revenue shall be used for the construction, maintenance, or improvement of any other state or county road within the county or counties in which the revenue-producing project is located, except as provided in s. 348.0004.

(6) Selection of projects on the State Highway System for construction, maintenance, or improvement with toll revenues shall be, with the concurrence of the department, consistent with the Florida Transportation Plan.

(7) Notwithstanding the provisions of subsection (1), and not including high occupancy toll lanes or express lanes, no tolls may be charged for use of an interstate highway where tolls were not charged as of July 1, 1997.

(8) With the exception of subsection (3), this section does not apply to the turnpike system as defined under the Florida Turnpike Enterprise Law.

Reviser's note.—Section 51, ch. 2007-196, Laws of Florida, amended s. 338.165 without publishing existing subsection (6) and amended existing subsection (7) with coding indicating the material is newly numbered by that law as subsection (7) and with uncoded language at the beginning of the subsection reading "[w]ith the exception of subsection (3)." To conform to renumbering of subsections by s. 51, ch. 2007-196, and absent affirmative evidence of legislative intent to repeal existing subsection (6), redesignated as subsection (7) to conform to the addition of a new subsection (3) by s. 51, ch. 2007-196, the section is reenacted.

Section 69. Subsection (4) of section 338.231, Florida Statutes, is amended to read:

338.231 Turnpike tolls, fixing; pledge of tolls and other revenues.—The department shall at all times fix, adjust, charge, and collect such tolls for the use of the turnpike system as are required in order to provide a fund sufficient with other revenues of the turnpike system to pay the cost of maintaining, improving, repairing, and operating such turnpike system; to pay the principal of and interest on all bonds issued to finance or refinance any portion of the turnpike system as the same become due and payable; and to create reserves for all such purposes.

(4) For the period July 1, 1998, through June 30, 2017, the department shall, to the maximum extent feasible, program sufficient funds in the tentative work program such that the percentage of turnpike toll and bond financed commitments in Miami-Dade ~~Dade~~ County, Broward County, and Palm Beach County as compared to total turnpike toll and bond financed commitments shall be at least 90 percent of the share of net toll collections attributable to users of the turnpike system in Miami-Dade ~~Dade~~ County, Broward County, and Palm Beach County as compared to total net toll collections attributable to users of the turnpike system. The requirements of this subsection do not apply when the application of such requirements would violate any covenant established in a resolution or trust indenture relating to the issuance of turnpike bonds.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 70. Paragraph (a) of subsection (3) of section 339.175, Florida Statutes, is amended to read:

339.175 Metropolitan planning organization.—

(3) VOTING MEMBERSHIP.—

(a) The voting membership of an M.P.O. shall consist of not fewer than 5 or more than 19 apportioned members, the exact number to be determined on an equitable geographic-population ratio basis by the Governor, based on an agreement among the affected units of general-purpose local government as required by federal rules and regulations. The Governor, in accordance with 23 U.S.C. s. 134, may also provide for M.P.O. members who represent municipalities to alternate with representatives from other municipalities within the metropolitan planning area that do not have members on the M.P.O. County commission members shall compose not less than one-third of the M.P.O. membership, except for an M.P.O. with more than 15 members located in a county with a 5-member county commission or an M.P.O. with 19 members located in a county with no more than 6 county commissioners, in which case county commission members may compose less than one-third percent of the M.P.O. membership, but all county commissioners must be members. All voting members shall be elected officials of general-purpose local governments, except that an M.P.O. may include, as part of its apportioned voting members, a member of a statutorily authorized planning board, an official of an agency that operates or administers a major mode

of transportation, or an official of Space Florida ~~the Florida Space Authority~~. As used in this section, the term "elected officials of a general-purpose local government" shall exclude constitutional officers, including sheriffs, tax collectors, supervisors of elections, property appraisers, clerks of the court, and similar types of officials. County commissioners shall compose not less than 20 percent of the M.P.O. membership if an official of an agency that operates or administers a major mode of transportation has been appointed to an M.P.O.

Reviser's note.—Amended to conform to the amendment to s. 331.302 by s. 3, ch. 2006-60, Laws of Florida, which replaced the Florida Space Authority with Space Florida.

Section 71. Paragraph (a) of subsection (11) of section 343.92, Florida Statutes, is amended to read:

343.92 Tampa Bay Area Regional Transportation Authority.—

(11)(a) The authority shall establish a Transit Management Committee comprised of the executive directors or general managers, or their designees, of each of the existing transit providers and ~~Tampa~~ bay area commuter services.

Reviser's note.—Amended to confirm the editorial deletion of the word "Tampa" preceding the word "bay" to conform to context.

Section 72. Paragraph (l) of subsection (2) of section 348.243, Florida Statutes, is repealed.

Reviser's note.—The cited paragraph, which relates to an agreement to sell, transfer, and dispose of all property of the Sawgrass Expressway to the Department of Transportation as part of the Turnpike System, has served its purpose.

Section 73. Subsection (14) of section 364.02, Florida Statutes, is amended to read:

364.02 Definitions.—As used in this chapter:

(14) "Telecommunications company" includes every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court whatsoever, and every political subdivision in the state, offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility. The term "telecommunications company" does not include:

(a) An entity which provides a telecommunications facility exclusively to a certificated telecommunications company;

(b) An entity which provides a telecommunications facility exclusively to a company which is excluded from the definition of a telecommunications company under this subsection;

(c) A commercial mobile radio service provider;

(d) A facsimile transmission service;

(e) A private computer data network company not offering service to the public for hire;

(f) A cable television company providing cable service as defined in 47 U.S.C. s. 522; or

(g) An intrastate interexchange telecommunications company.

However, each commercial mobile radio service provider and each intrastate interexchange telecommunications company shall continue to be liable for any taxes imposed under chapters 202, 203, and 212 and any fees assessed under s. 364.025. Each intrastate interexchange telecommunications company shall continue to be subject to ss. 364.04, 364.10(3)(a) and (d), 364.163, 364.285, 364.336, 364.501, 364.603, and 364.604, shall provide the commission with the current information as the commission deems necessary to contact and communicate with the company, shall continue to pay intrastate switched network access rates or other intercarrier compensation to the local exchange telecommunications company or the competitive local exchange telecommunications company for the origination and termination of interexchange telecommunications service, and shall reduce its intrastate long distance toll rates in accordance with former s. 364.163(2).

Reviser's note.—Amended to conform to the repeal of s. 364.163(2) by s. 12, ch. 2007-29, Laws of Florida.

Section 74. Subsection (3) of section 367.171, Florida Statutes, is amended to read:

367.171 Effectiveness of this chapter.—

(3) In consideration of the variance of powers, duties, responsibilities, population, and size of municipalities of the several counties and in consideration of the fact that every county varies from every other county and thereby affects the functions, duties, and responsibilities required of its county officers and the scope of responsibilities which each county may, at this time, undertake, the Counties of Alachua, Baker, Bradford, Calhoun, Charlotte, Collier, ~~Dade,~~ Dixie, Escambia, Flagler, Gadsden, Gilchrist, Glades, Hamilton, Hardee, Hendry, Hernando, Hillsborough, Holmes, Indian River, Jefferson, Lafayette, Leon, Liberty, Madison, Manatee, Miami-Dade, Okaloosa, Okeechobee, Polk, St. Lucie, Santa Rosa, Sarasota, Suwannee, Taylor, Union, Wakulla, and Walton are excluded from the provisions of this chapter until such time as the board of county commissioners of any such county, acting pursuant to the provisions of subsection (1), makes this chapter applicable to such county or until the Legislature, by appropriate act, removes one or more of such counties from this exclusion.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 75. Subsection (2) of section 369.255, Florida Statutes, is amended to read:

369.255 Green utility ordinances for funding greenspace management and exotic plant control.—

(2) In addition to any other funding mechanisms legally available to counties and municipalities to control invasive, nonindigenous aquatic or upland plants and manage urban forest resources, a county or municipality may create one or more green utilities or adopt fees sufficient to plan, restore, and manage urban forest resources, greenways, forest preserves, wetlands, and other aquatic zones and create a stewardship grant program for private natural areas. Counties or municipalities may create, alone or in cooperation with other counties or municipalities pursuant to the Florida Interlocal Cooperation Act <u>of 1969</u>, s. 163.01, one or more greenspace management districts to fund the planning, management, operation, and administration of a greenspace management program. The fees shall be collected on a voluntary basis as set forth by the county or municipality and calculated to generate sufficient funds to plan, manage, operate, and administer a greenspace management program. Private natural areas assessed according to s. 193.501 would qualify for stewardship grants.

Reviser's note.—Amended to conform to the name of the Florida Interlocal Cooperation Act of 1969 as referenced in s. 163.01.

Section 76. Paragraph (a) of subsection (4) of section 370.142, Florida Statutes, is amended to read:

370.142 Spiny lobster trap certificate program.—

(4) TRAP CERTIFICATE TECHNICAL ADVISORY AND APPEALS BOARD.—There is hereby established the Trap Certificate Technical Advisory and Appeals Board. Such board shall consider and advise the commission on disputes and other problems arising from the implementation of the spiny lobster trap certificate program. The board may also provide information to the commission on the operation of the trap certificate program.

(a) The board shall consist of the executive director of the commission or designee and nine other members appointed by the executive director, according to the following criteria:

1. All appointed members shall be certificateholders, but two shall be holders of fewer than 100 certificates, two shall be holders of at least 100 but no more than 750 certificates, three shall be holders of more than 750 but not more than 2,000 certificates, and two shall be holders of more than 2,000 certificates.

2. At least one member each shall come from Broward, <u>Miami-Dade</u> ~~Dade~~, and Palm Beach Counties; and five members shall come from the various regions of the Florida Keys.

3. At least one appointed member shall be a person of Hispanic origin capable of speaking English and Spanish.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 77. Paragraph (a) of subsection (2) of section 370.172, Florida Statutes, is amended to read:

370.172 Spearfishing; definition; limitations; penalty.—

(2)(a) Spearfishing is prohibited within the boundaries of the John Pennekamp Coral Reef State Park, the waters of Collier County, and the area in Monroe County known as Upper Keys, which includes all salt waters under the jurisdiction of the Fish and Wildlife Conservation Commission beginning at the county line between Miami-Dade ~~Dade~~ and Monroe Counties and running south, including all of the keys down to and including Long Key.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 78. Section 372.09, Florida Statutes, is amended to read:

372.09 State Game Trust Fund.—The funds resulting from the operation of the commission and from the administration of the laws and regulations pertaining to birds, game, fur-bearing animals, freshwater fish, reptiles, and amphibians, together with any other funds specifically provided for such purposes shall constitute the State Game Trust Fund and shall be used by the commission as it shall deem fit in carrying out the provisions hereof and for no other purposes, except that annual use fees deposited into the trust fund from the sale of the Largemouth Bass license plate may be expended for the purposes provided under s. 320.08058(17) ~~320.08058(18)~~. The commission may not obligate itself beyond the current resources of the State Game Trust Fund unless specifically so authorized by the Legislature.

Reviser's note.—Amended to conform to the repeal of s. 320.08058(15) by s. 2, ch. 2007-103, Laws of Florida, and the subsequent redesignation of subsections.

Section 79. Paragraph (b) of subsection (8) of section 373.026, Florida Statutes, is amended to read:

373.026 General powers and duties of the department.—The department, or its successor agency, shall be responsible for the administration of this chapter at the state level. However, it is the policy of the state that, to the greatest extent possible, the department may enter into interagency or interlocal agreements with any other state agency, any water management district, or any local government conducting programs related to or materially affecting the water resources of the state. All such agreements shall be subject to the provisions of s. 373.046. In addition to its other powers and duties, the department shall, to the greatest extent possible:

(8)

(b) To ensure to the greatest extent possible that project components will go forward as planned, the department shall collaborate with the South

Florida Water Management District in implementing the comprehensive plan as defined in s. 373.470(2)(b) ~~373.470(2)(a)~~, the Lake Okeechobee Watershed Protection Plan as defined in s. 373.4595(2), and the River Watershed Protection Plans as defined in s. 373.4595(2). Before any project component is submitted to Congress for authorization or receives an appropriation of state funds, the department must approve, or approve with amendments, each project component within 60 days following formal submittal of the project component to the department. Prior to the release of state funds for the implementation of the comprehensive plan, department approval shall be based upon a determination of the South Florida Water Management District's compliance with s. 373.1501(5). Once a project component is approved, the South Florida Water Management District shall provide to the Joint Legislative Committee on Everglades Oversight a schedule for implementing the project component, the estimated total cost of the project component, any existing federal or nonfederal credits, the estimated remaining federal and nonfederal share of costs, and an estimate of the amount of state funds that will be needed to implement the project component. All requests for an appropriation of state funds needed to implement the project component shall be submitted to the department, and such requests shall be included in the department's annual request to the Governor. Prior to the release of state funds for the implementation of the Lake Okeechobee Watershed Protection Plan or the River Watershed Protection Plans, on an annual basis, the South Florida Water Management District shall prepare an annual work plan as part of the consolidated annual report required in s. 373.036(7). Upon a determination by the secretary of the annual work plan's consistency with the goals and objectives of s. 373.4595, the secretary may approve the release of state funds. Any modifications to the annual work plan shall be submitted to the secretary for review and approval.

Reviser's note.—Amended to conform to the redesignation of s. 373.470(2)(a) as s. 373.470(2)(b) by s. 4, ch. 2007-253, Laws of Florida.

Section 80. Paragraph (d) of subsection (2) of section 373.073, Florida Statutes, is amended to read:

373.073 Governing board.—

(2) Membership on governing boards shall be selected from candidates who have significant experience in one or more of the following areas, including, but not limited to: agriculture, the development industry, local government, government-owned or privately owned water utilities, law, civil engineering, environmental science, hydrology, accounting, or financial businesses. Notwithstanding the provisions of any other general or special law to the contrary, vacancies in the governing boards of the water management districts shall be filled according to the following residency requirements, representing areas designated by the United States Water Resources Council in United States Geological Survey, River Basin and Hydrological Unit Map of Florida—1975, Map Series No. 72:

(d) South Florida Water Management District:

1. Two members shall reside in Miami-Dade ~~Dade~~ County.

2. One member shall reside in Broward County.

3. One member shall reside in Palm Beach County.

4. One member shall reside in Collier County, Lee County, Hendry County, or Charlotte County.

5. One member shall reside in Glades County, Okeechobee County, Highlands County, Polk County, Orange County, or Osceola County.

6. Two members, appointed at large, shall reside in an area consisting of St. Lucie, Martin, Palm Beach, Broward, Miami-Dade ~~Dade~~, and Monroe Counties.

7. One member, appointed at large, shall reside in an area consisting of Collier, Lee, Charlotte, Hendry, Glades, Osceola, Okeechobee, Polk, Highlands, and Orange Counties.

8. No county shall have more than three members on the governing board.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 81. Paragraph (a) of subsection (1) of section 373.1501, Florida Statutes, is amended to read:

373.1501 South Florida Water Management District as local sponsor.—

(1) As used in this section and s. 373.026(8), the term:

(a) "C-111 Project" means the project identified in the Central and Southern Florida Flood Control Project, Real Estate Design Memorandum, Canal 111, South Miami-Dade ~~Dade~~ County, Florida.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 82. Paragraph (a) of subsection (2) of section 373.1502, Florida Statutes, is amended to read:

373.1502 Regulation of comprehensive plan project components.—

(2) FINDINGS; INTENT.—

(a) The Legislature finds that implementation of the comprehensive plan, as defined in s. 373.470(2)(b) ~~373.470(2)(a)~~, is in the public interest and is necessary for restoring, preserving, and protecting the South Florida ecosystem, providing for the protection of water quality in and the reduction of the loss of fresh water from the Everglades, and providing such features as are necessary to meet the other water-related needs of the region, including flood control, the enhancement of water supplies, and other objectives served by the project.

Reviser's note.—Amended to conform to the redesignation of s. 373.470(2)(a) as s. 373.470(2)(b) by s. 4, ch. 2007-253, Laws of Florida.

Section 83. Paragraph (b) of subsection (3) of section 373.1961, Florida Statutes, is amended to read:

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

(3) FUNDING.—

(b) Beginning in fiscal year 2005-2006, the state shall annually provide a portion of those revenues deposited into the Water Protection and Sustainability Program Trust Fund for the purpose of providing funding assistance for the development of alternative water supplies pursuant to the Water Protection and Sustainability Program. At the beginning of each fiscal year, beginning with fiscal year 2005-2006, such revenues shall be distributed by the department into the alternative water supply trust fund accounts created by each district for the purpose of alternative water supply development under the following funding formula:

1. Thirty percent to the South Florida Water Management District;

2. Twenty-five percent to the Southwest Florida Water Management District;

3. Twenty-five percent to the St. Johns River Water Management District;

4. Ten percent to the Suwannee River Water Management District; and

5. Ten percent to the Northwest Florida Water Management District.

Reviser's note.—Amended to conform to the name of the trust fund at s. 403.891, which creates the fund.

Section 84. Subsection (16) of section 373.414, Florida Statutes, is amended to read:

373.414 Additional criteria for activities in surface waters and wetlands.—

(16) Until October 1, 2000, regulation under rules adopted pursuant to this part of any sand, limerock, or limestone mining activity which is located in Township 52 South, Range 39 East, sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36; in Township 52 South, Range 40 East, sections 6, 7, 8, 18, and 19; in Township 53 South, Range 39 East, sections 1, 2, 13, 21, 22, 23, 24, 25, 26, 33, 34, 35, and 36; and in Township 54 South, Range 38 East, sections 24, and 25, and 36, shall not include the rules adopted pursuant to subsection (9). In addition, until October 1, 2000, such activities shall continue to be regulated under the rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, as such rules existed prior to the effective date of the rules adopted pursuant to subsection (9) and such dredge and fill jurisdiction shall

be that which existed prior to January 24, 1984. In addition, any such sand, limerock, or limestone mining activity shall be approved by Miami-Dade ~~Dade~~ County and the United States Army Corps of Engineers. This section shall only apply to mining activities which are continuous and carried out on land contiguous to mining operations that were in existence on or before October 1, 1984.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 85. Subsections (16) and (19) of section 373.4211, Florida Statutes, are amended to read:

373.4211 Ratification of chapter 17-340, Florida Administrative Code, on the delineation of the landward extent of wetlands and surface waters.—Pursuant to s. 373.421, the Legislature ratifies chapter 17-340, Florida Administrative Code, approved on January 13, 1994, by the Environmental Regulation Commission, with the following changes:

(16) Rule 17-340.450(2) is amended by adding, after the species list, the following language:

"Within Monroe County and the Key Largo portion of Miami-Dade ~~Dade~~ County only, the following species shall be listed as Facultative Wet: Alternanthera maritima, Morinda royoc, and Strumpfia maritima."

(19) Rule 17-340.450(3) is amended by adding, after the species list, the following language:

"Within Monroe County and the Key Largo portion of Miami-Dade ~~Dade~~ County only, the following species shall be listed as facultative: Alternanthera paronychioides, Byrsonima lucida, Ernodea littoralis, Guapira discolor, Marnilkara bahamensis, Pisonis rotundata, Pithecellobium keyensis, Pithecellobium unquis-cati, Randia aculeata, Reynosia septentrionalis, and Thrinax radiata."

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 86. Paragraph (f) of subsection (1) and paragraph (b) of subsection (4) of section 373.4592, Florida Statutes, are amended to read:

373.4592 Everglades improvement and management.—

(1) FINDINGS AND INTENT.—

(f) The Legislature finds that improved water supply and hydroperiod management are crucial elements to overall revitalization of the Everglades ecosystem, including Florida Bay. It is the intent of the Legislature to expedite plans and programs for improving water quantity reaching the Everglades, correcting long-standing hydroperiod problems, increasing the total quantity of water flowing through the system, providing water supply for the Everglades National Park, urban and agricultural areas, and Florida Bay, and replacing water previously available from the coastal ridge in areas of

southern Miami-Dade ~~Dade~~ County. Whenever possible, wasteful discharges of fresh water to tide shall be reduced, and the water shall be stored for delivery at more optimum times. Additionally, reuse and conservation measures shall be implemented consistent with law. The Legislature further recognizes that additional water storage may be an appropriate use of Lake Okeechobee.

(4) EVERGLADES PROGRAM.—

(b) Everglades water supply and hydroperiod improvement and restoration.—

1. A comprehensive program to revitalize the Everglades shall include programs and projects to improve the water quantity reaching the Everglades Protection Area at optimum times and improve hydroperiod deficiencies in the Everglades ecosystem. To the greatest extent possible, wasteful discharges of fresh water to tide shall be reduced, and water conservation practices and reuse measures shall be implemented by water users, consistent with law. Water supply management must include improvement of water quantity reaching the Everglades, correction of long-standing hydroperiod problems, and an increase in the total quantity of water flowing through the system. Water supply management must provide water supply for the Everglades National Park, the urban and agricultural areas, and the Florida Bay and must replace water previously available from the coastal ridge areas of southern Miami-Dade ~~Dade~~ County. The Everglades Construction Project redirects some water currently lost to tide. It is an important first step in completing hydroperiod improvement.

2. The district shall operate the Everglades Construction Project as specified in the February 15, 1994, conceptual design document, to provide additional inflows to the Everglades Protection Area. The increased flow from the project shall be directed to the Everglades Protection Area as needed to achieve an average annual increase of 28 percent compared to the baseline years of 1979 to 1988. Consistent with the design of the Everglades Construction Project and without demonstratively reducing water quality benefits, the regulatory releases will be timed and distributed to the Everglades Protection Area to maximize environmental benefits.

3. The district shall operate the Everglades Construction Project in accordance with the February 15, 1994, conceptual design document to maximize the water quantity benefits and improve the hydroperiod of the Everglades Protection Area. All reductions of flow to the Everglades Protection Area from BMP implementation will be replaced. The district shall develop a model to be used for quantifying the amount of water to be replaced. The timing and distribution of this replaced water will be directed to the Everglades Protection Area to maximize the natural balance of the Everglades Protection Area.

4. The Legislature recognizes the complexity of the Everglades watershed, as well as legal mandates under Florida and federal law. As local sponsor of the Central and Southern Florida Flood Control Project, the district must coordinate its water supply and hydroperiod programs with the Federal Government. Federal planning, research, operating guidelines,

and restrictions for the Central and Southern Florida Flood Control Project now under review by federal agencies will provide important components of the district's Everglades Program. The department and district shall use their best efforts to seek the amendment of the authorized purposes of the project to include water quality protection, hydroperiod restoration, and environmental enhancement as authorized purposes of the Central and Southern Florida Flood Control Project, in addition to the existing purposes of water supply, flood protection, and allied purposes. Further, the department and the district shall use their best efforts to request that the Federal Government include in the evaluation of the regulation schedule for Lake Okeechobee a review of the regulatory releases, so as to facilitate releases of water into the Everglades Protection Area which further improve hydroperiod restoration.

5. The district, through cooperation with the federal and state agencies, shall develop other programs and methods to increase the water flow and improve the hydroperiod of the Everglades Protection Area.

6. Nothing in this section is intended to provide an allocation or reservation of water or to modify the provisions of part II. All decisions regarding allocations and reservations of water shall be governed by applicable law.

7. The district shall proceed to expeditiously implement the minimum flows and levels for the Everglades Protection Area as required by s. 373.042 and shall expeditiously complete the Lower East Coast Water Supply Plan.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 87. Paragraph (c) of subsection (3) of section 373.4595, Florida Statutes, is amended to read:

373.4595 Northern Everglades and Estuaries Protection Program.—

(3) LAKE OKEECHOBEE WATERSHED PROTECTION PROGRAM.—A protection program for Lake Okeechobee that achieves phosphorus load reductions for Lake Okeechobee shall be immediately implemented as specified in this subsection. The program shall address the reduction of phosphorus loading to the lake from both internal and external sources. Phosphorus load reductions shall be achieved through a phased program of implementation. Initial implementation actions shall be technology-based, based upon a consideration of both the availability of appropriate technology and the cost of such technology, and shall include phosphorus reduction measures at both the source and the regional level. The initial phase of phosphorus load reductions shall be based upon the district's Technical Publication 81-2 and the district's WOD program, with subsequent phases of phosphorus load reductions based upon the total maximum daily loads established in accordance with s. 403.067. In the development and administration of the Lake Okeechobee Watershed Protection Program, the coordinating agencies shall maximize opportunities provided by federal cost-sharing programs and opportunities for partnerships with the private sector.

(c) Lake Okeechobee Watershed Phosphorus Control Program.—The Lake Okeechobee Watershed Phosphorus Control Program is designed to be a multifaceted approach to reducing phosphorus loads by improving the management of phosphorus sources within the Lake Okeechobee watershed through implementation of regulations and best management practices, development and implementation of improved best management practices, improvement and restoration of the hydrologic function of natural and managed systems, and utilization of alternative technologies for nutrient reduction. The coordinating agencies shall facilitate the application of federal programs that offer opportunities for water quality treatment, including preservation, restoration, or creation of wetlands on agricultural lands.

1. Agricultural nonpoint source best management practices, developed in accordance with s. 403.067 and designed to achieve the objectives of the Lake Okeechobee Watershed Protection Program, shall be implemented on an expedited basis. The coordinating agencies shall develop an interagency agreement pursuant to ss. 373.046 and 373.406(5) that assures the development of best management practices that complement existing regulatory programs and specifies how those best management practices are implemented and verified. The interagency agreement shall address measures to be taken by the coordinating agencies during any best management practice reevaluation performed pursuant to sub-subparagraph d. The department shall use best professional judgment in making the initial determination of best management practice effectiveness.

a. As provided in s. 403.067(7)(c), the Department of Agriculture and Consumer Services, in consultation with the department, the district, and affected parties, shall initiate rule development for interim measures, best management practices, conservation plans, nutrient management plans, or other measures necessary for Lake Okeechobee watershed total maximum daily load reduction. The rule shall include thresholds for requiring conservation and nutrient management plans and criteria for the contents of such plans. Development of agricultural nonpoint source best management practices shall initially focus on those priority basins listed in subparagraph (b)1. The Department of Agriculture and Consumer Services, in consultation with the department, the district, and affected parties, shall conduct an ongoing program for improvement of existing and development of new interim measures or best management practices for the purpose of adoption of such practices by rule. The Department of Agriculture and Consumer Services shall work with the University of Florida's Institute of Food and Agriculture Sciences to review and, where appropriate, develop revised nutrient application rates for all agricultural soil amendments in the watershed.

b. Where agricultural nonpoint source best management practices or interim measures have been adopted by rule of the Department of Agriculture and Consumer Services, the owner or operator of an agricultural nonpoint source addressed by such rule shall either implement interim measures or best management practices or demonstrate compliance with the district's WOD program by conducting monitoring prescribed by the department or the district. Owners or operators of agricultural nonpoint sources who implement interim measures or best management practices adopted by

rule of the Department of Agriculture and Consumer Services shall be subject to the provisions of s. 403.067(7). The Department of Agriculture and Consumer Services, in cooperation with the department and the district, shall provide technical and financial assistance for implementation of agricultural best management practices, subject to the availability of funds.

c. The district or department shall conduct monitoring at representative sites to verify the effectiveness of agricultural nonpoint source best management practices.

d. Where water quality problems are detected for agricultural nonpoint sources despite the appropriate implementation of adopted best management practices, the Department of Agriculture and Consumer Services, in consultation with the other coordinating agencies and affected parties, shall institute a reevaluation of the best management practices and make appropriate changes to the rule adopting best management practices.

2. Nonagricultural nonpoint source best management practices, developed in accordance with s. 403.067 and designed to achieve the objectives of the Lake Okeechobee Watershed Protection Program, shall be implemented on an expedited basis. The department and the district shall develop an interagency agreement pursuant to ss. 373.046 and 373.406(5) that assures the development of best management practices that complement existing regulatory programs and specifies how those best management practices are implemented and verified. The interagency agreement shall address measures to be taken by the department and the district during any best management practice reevaluation performed pursuant to sub-subparagraph d.

a. The department and the district are directed to work with the University of Florida's Institute of Food and Agricultural Sciences to develop appropriate nutrient application rates for all nonagricultural soil amendments in the watershed. As provided in s. 403.067(7)(c), the department, in consultation with the district and affected parties, shall develop interim measures, best management practices, or other measures necessary for Lake Okeechobee watershed total maximum daily load reduction. Development of nonagricultural nonpoint source best management practices shall initially focus on those priority basins listed in subparagraph (b)1. The department, the district, and affected parties shall conduct an ongoing program for improvement of existing and development of new interim measures or best management practices. The district shall adopt technology-based standards under the district's WOD program for nonagricultural nonpoint sources of phosphorus. Nothing in this sub-subparagraph shall affect the authority of the department or the district to adopt basin-specific criteria under this part to prevent harm to the water resources of the district.

b. Where nonagricultural nonpoint source best management practices or interim measures have been developed by the department and adopted by the district, the owner or operator of a nonagricultural nonpoint source shall implement interim measures or best management practices and be subject to the provisions of s. 403.067(7). The department and district shall provide technical and financial assistance for implementation of nonagricultural

nonpoint source best management practices, subject to the availability of funds.

c. The district or the department shall conduct monitoring at representative sites to verify the effectiveness of nonagricultural nonpoint source best management practices.

d. Where water quality problems are detected for nonagricultural nonpoint sources despite the appropriate implementation of adopted best management practices, the department and the district shall institute a reevaluation of the best management practices.

3. The provisions of subparagraphs 1. and 2. shall not preclude the department or the district from requiring compliance with water quality standards or with current best management practices requirements set forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. Additionally, subparagraphs 1. and 2. are applicable only to the extent that they do not conflict with any rules promulgated by the department that are necessary to maintain a federally delegated or approved program.

4. Projects that reduce the phosphorus load originating from domestic wastewater systems within the Lake Okeechobee watershed shall be given funding priority in the department's revolving loan program under s. 403.1835. The department shall coordinate and provide assistance to those local governments seeking financial assistance for such priority projects.

5. Projects that make use of private lands, or lands held in trust for Indian tribes, to reduce nutrient loadings or concentrations within a basin by one or more of the following methods: restoring the natural hydrology of the basin, restoring wildlife habitat or impacted wetlands, reducing peak flows after storm events, increasing aquifer recharge, or protecting range and timberland from conversion to development, are eligible for grants available under this section from the coordinating agencies. For projects of otherwise equal priority, special funding priority will be given to those projects that make best use of the methods outlined above that involve public-private partnerships or that obtain federal match money. Preference ranking above the special funding priority will be given to projects located in a rural area of critical economic concern designated by the Governor. Grant applications may be submitted by any person or tribal entity, and eligible projects may include, but are not limited to, the purchase of conservation and flowage easements, hydrologic restoration of wetlands, creating treatment wetlands, development of a management plan for natural resources, and financial support to implement a management plan.

6.a. The department shall require all entities disposing of domestic wastewater residuals within the Lake Okeechobee watershed and the remaining areas of Okeechobee, Glades, and Hendry Counties to develop and submit to the department an agricultural use plan that limits applications based upon phosphorus loading. By July 1, 2005, phosphorus concentrations originating from these application sites shall not exceed the limits established in the district's WOD program. After December 31, 2007, the department may not authorize the disposal of domestic wastewater residuals

within the Lake Okeechobee watershed unless the applicant can affirmatively demonstrate that the phosphorus in the residuals will not add to phosphorus loadings in Lake Okeechobee or its tributaries. This demonstration shall be based on achieving a net balance between phosphorus imports relative to exports on the permitted application site. Exports shall include only phosphorus removed from the Lake Okeechobee watershed through products generated on the permitted application site. This prohibition does not apply to Class AA residuals that are marketed and distributed as fertilizer products in accordance with department rule.

b. Private and government-owned utilities within Monroe, Miami-Dade ~~Dade~~, Broward, Palm Beach, Martin, St. Lucie, Indian River, Okeechobee, Highlands, Hendry, and Glades Counties that dispose of wastewater residual sludge from utility operations and septic removal by land spreading in the Lake Okeechobee watershed may use a line item on local sewer rates to cover wastewater residual treatment and disposal if such disposal and treatment is done by approved alternative treatment methodology at a facility located within the areas designated by the Governor as rural areas of critical economic concern pursuant to s. 288.0656. This additional line item is an environmental protection disposal fee above the present sewer rate and shall not be considered a part of the present sewer rate to customers, notwithstanding provisions to the contrary in chapter 367. The fee shall be established by the county commission or its designated assignee in the county in which the alternative method treatment facility is located. The fee shall be calculated to be no higher than that necessary to recover the facility's prudent cost of providing the service. Upon request by an affected county commission, the Florida Public Service Commission will provide assistance in establishing the fee. Further, for utilities and utility authorities that use the additional line item environmental protection disposal fee, such fee shall not be considered a rate increase under the rules of the Public Service Commission and shall be exempt from such rules. Utilities using the provisions of this section may immediately include in their sewer invoicing the new environmental protection disposal fee. Proceeds from this environmental protection disposal fee shall be used for treatment and disposal of wastewater residuals, including any treatment technology that helps reduce the volume of residuals that require final disposal, but such proceeds shall not be used for transportation or shipment costs for disposal or any costs relating to the land application of residuals in the Lake Okeechobee watershed.

c. No less frequently than once every 3 years, the Florida Public Service Commission or the county commission through the services of an independent auditor shall perform a financial audit of all facilities receiving compensation from an environmental protection disposal fee. The Florida Public Service Commission or the county commission through the services of an independent auditor shall also perform an audit of the methodology used in establishing the environmental protection disposal fee. The Florida Public Service Commission or the county commission shall, within 120 days after completion of an audit, file the audit report with the President of the Senate and the Speaker of the House of Representatives and shall provide copies to the county commissions of the counties set forth in sub-subparagraph b. The books and records of any facilities receiving compensation from an

environmental protection disposal fee shall be open to the Florida Public Service Commission and the Auditor General for review upon request.

7. The Department of Health shall require all entities disposing of septage within the Lake Okeechobee watershed to develop and submit to that agency an agricultural use plan that limits applications based upon phosphorus loading. By July 1, 2005, phosphorus concentrations originating from these application sites shall not exceed the limits established in the district's WOD program.

8. The Department of Agriculture and Consumer Services shall initiate rulemaking requiring entities within the Lake Okeechobee watershed which land-apply animal manure to develop resource management system level conservation plans, according to United States Department of Agriculture criteria, which limit such application. Such rules may include criteria and thresholds for the requirement to develop a conservation or nutrient management plan, requirements for plan approval, and recordkeeping requirements.

9. The district, the department, or the Department of Agriculture and Consumer Services, as appropriate, shall implement those alternative nutrient reduction technologies determined to be feasible pursuant to subparagraph (d)6.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 88. Paragraph (e) of subsection (2) of section 373.470, Florida Statutes, is amended to read:

373.470 Everglades restoration.—

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

(e) "Lake Okeechobee Watershed Protection Plan" means the plan developed pursuant to ss. 373.4595(3)(a) ~~375.4595~~ and 373.451-373.459.

Reviser's note.—Amended to conform to the fact that s. 375.4595 does not exist. Section 373.4595(3)(a) provides for the Lake Okeechobee Watershed Protection Plan.

Section 89. Subsection (1) of section 373.472, Florida Statutes, is amended to read:

373.472 Save Our Everglades Trust Fund.—

(1) There is created within the Department of Environmental Protection the Save Our Everglades Trust Fund. Funds in the trust fund shall be expended to implement the comprehensive plan defined in s. 373.470(2)(b) ~~373.470(2)(a)~~, the Lake Okeechobee Watershed Protection Plan defined in s. 373.4595(2), the Caloosahatchee River Watershed Protection Plan defined in s. 373.4595(2), and the St. Lucie River Watershed Protection Plan defined in s. 373.4595(2), and to pay debt service for Everglades restoration bonds issued pursuant to s. 215.619. The trust fund shall serve as the repository

for state, local, and federal project contributions in accordance with s. 373.470(4).

Reviser's note.—Amended to conform to the redesignation of s. 373.470(2)(a) as s. 373.470(2)(b) by s. 4, ch. 2007-253, Laws of Florida.

Section 90. Paragraph (c) of subsection (3) of section 376.308, Florida Statutes, is amended to read:

376.308 Liabilities and defenses of facilities.—

(3) For purposes of this section, the following additional defenses shall apply to sites contaminated with petroleum or petroleum products:

(c) The defendant is a lender which held a security interest in the site and has foreclosed or otherwise acted to acquire title primarily to protect its security interest, and seeks to sell, transfer, or otherwise divest the assets for subsequent sale at the earliest possible time, taking all relevant facts and circumstances into account, and has not undertaken management activities beyond those necessary to protect its financial interest, to effectuate compliance with environmental statutes and rules, or to prevent or abate a discharge; however, if the facility is not eligible for cleanup pursuant to s. 376.305(6) ~~376.305(7)~~, s. 376.3071, or s. 376.3072, any funds expended by the department for cleanup of the property shall constitute a lien on the property against any subsequent sale after the amount of the former security interest (including the cost of collection, management, and sale) is satisfied.

Reviser's note.—Amended to conform to the redesignation of s. 376.305(7) as s. 376.305(6) by s. 4, ch. 96-277, Laws of Florida.

Section 91. Subsection (1) of section 377.42, Florida Statutes, is amended to read:

377.42 Big Cypress Swamp Advisory Committee.—

(1) For purposes of this section, the Big Cypress watershed is defined as the area in Collier County and the adjoining portions of Hendry, Broward, Miami-Dade ~~Dade~~, and Monroe Counties which is designated as the Big Cypress Swamp in U.S. Geological Survey Open-File Report No. 70003.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 92. Paragraph (c) of subsection (1), paragraph (c) of subsection (2), and paragraph (c) of subsection (3) of section 381.0273, Florida Statutes, are amended to read:

381.0273 Public records exemption for patient safety data.—

(1) Information that identifies a patient and that is contained in patient safety data, as defined in s. 766.1016, or in other records held by the Florida Patient Safety Corporation and its subsidiaries, advisory committees, or contractors pursuant to s. 381.0271 is confidential and exempt from s.

119.07(1) and s. 24(a), Art. I of the State Constitution. Personal identifying information made confidential and exempt from disclosure by this subsection may be disclosed only:

(c) To a health research entity if the entity seeks the records or data pursuant to a research protocol approved by the corporation, maintains the records or data in accordance with the approved protocol, and enters into a purchase and data-use agreement with the corporation, the fee provisions of which are consistent with s. 119.07(4) ~~119.07(1)(a)~~. The corporation may deny a request for records or data that identify the patient if the protocol provides for intrusive follow-back contacts, has not been approved by a human studies institutional review board, does not plan for the destruction of confidential records after the research is concluded, or does not have scientific merit. The agreement must prohibit the release of any information that would permit the identification of any patient, must limit the use of records or data in conformance with the approved research protocol, and must prohibit any other use of the records or data. Copies of records or data issued pursuant to this paragraph remain the property of the corporation.

(2) Information that identifies the person or entity that reports patient safety data, as defined in s. 766.1016, to the corporation and that is contained in patient safety data or in other records held by the Florida Patient Safety Corporation and its subsidiaries, advisory committees, or contractors pursuant to s. 381.0271 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Information that identifies a person or entity reporting patient safety data made confidential and exempt from disclosure by this subsection may be disclosed only:

(c) To a health research entity if the entity seeks the records or data pursuant to a research protocol approved by the corporation, maintains the records or data in accordance with the approved protocol, and enters into a purchase and data-use agreement with the corporation, the fee provisions of which are consistent with s. 119.07(4) ~~119.07(1)(a)~~. The corporation may deny a request for records or data that identify the person or entity reporting patient safety data if the protocol provides for intrusive follow-back contacts, has not been approved by a human studies institutional review board, does not plan for the destruction of confidential records after the research is concluded, or does not have scientific merit. The agreement must prohibit the release of any information that would permit the identification of persons or entities that report patient safety data, must limit the use of records or data in conformance with the approved research protocol, and must prohibit any other use of the records or data. Copies of records or data issued pursuant to this paragraph remain the property of the corporation.

(3) Information that identifies a health care practitioner or health care facility which is held by the Florida Patient Safety Corporation and its subsidiaries, advisory committees, or contractors pursuant to s. 381.0271, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Information that identifies a health care practitioner or health care facility and that is contained in patient safety data made confidential and exempt from disclosure by this subsection may be disclosed only:

(c) To a health research entity if the entity seeks the records or data pursuant to a research protocol approved by the corporation, maintains the records or data in accordance with the approved protocol, and enters into a purchase and data-use agreement with the corporation, the fee provisions of which are consistent with s. 119.07(4) ~~119.07(1)(a)~~. The corporation may deny a request for records or data that identify the person or entity reporting patient safety data if the protocol provides for intrusive follow-back contacts, has not been approved by a human studies institutional review board, does not plan for the destruction of confidential records after the research is concluded, or does not have scientific merit. The agreement must prohibit the release of any information that would permit the identification of persons or entities that report patient safety data, must limit the use of records or data in conformance with the approved research protocol, and must prohibit any other use of the records or data. Copies of records or data issued under this paragraph remain the property of the corporation.

Reviser's note.—Amended to conform to the redesignation of material regarding fees for copies of public records in s. 119.07(1)(a) as s. 119.07(4) by s. 7, ch. 2004-335, Laws of Florida.

Section 93. Paragraph (a) of subsection (1) of section 381.0404, Florida Statutes, is amended to read:

381.0404 Center for Health Technologies.—

(1)(a) There is hereby established the Center for Health Technologies, to be located at and administered by a statutory teaching hospital located in Miami-Dade ~~Dade~~ County and hereafter referred to as the administrator.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 94. Paragraph (c) of subsection (2) of section 381.92, Florida Statutes, is amended to read:

381.92 Florida Cancer Council.—

(2)

(c) The members of the council shall consist of:

1. The chair of the Florida Dialogue on Cancer, who shall serve as the chair of the council;

2. The State Surgeon General or his or her designee;

3. The chief executive officer of the H. Lee Moffitt Cancer Center or his or her designee;

4. The director of the University of Florida Shands Cancer Center or his or her designee;

5. The chief executive officer of the University of Miami Sylvester Comprehensive Cancer Center or his or her designee;

6. The chief executive officer of the Mayo Clinic, Jacksonville, or his or her designee;

7. The chief executive officer of the American Cancer Society, Florida Division, Inc., or his or her designee;

8. The president of the American Cancer Society, Florida Division, Inc., Board of Directors or his or her designee;

9. The president of the Florida Society of Clinical Oncology or his or her designee;

10. The president of the American College of Surgeons, Florida Chapter, or his or her designee;

11. The chief executive officer of Enterprise Florida, Inc., or his or her designee;

12. Five representatives from cancer programs approved by the American College of Surgeons. Three shall be appointed by the Governor, one shall be appointed by the Speaker of the House of Representatives, and one shall be appointed by the President of the Senate;

13. One member of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and

14. One member of the Senate, to be appointed by the President of the Senate.

Reviser's note.—Amended to improve clarity and correct sentence construction.

Section 95. Subsection (5) of section 383.412, Florida Statutes, is amended to read:

383.412 Public records and public meetings exemptions.—

(5) This section is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15, and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 96. Subsection (1) of section 390.012, Florida Statutes, is amended to read:

390.012 Powers of agency; rules; disposal of fetal remains.—

(1) The agency may develop and enforce rules pursuant to ss. 390.011-390.018 ~~390.001-390.018~~ and part II of chapter 408 for the health, care, and treatment of persons in abortion clinics and for the safe operation of such clinics.

(a) The rules shall be reasonably related to the preservation of maternal health of the clients.

(b) The rules shall be in accordance with s. 797.03 and may not impose an unconstitutional burden on a woman's freedom to decide whether to terminate her pregnancy.

(c) The rules shall provide for:

1. The performance of pregnancy termination procedures only by a licensed physician.

2. The making, protection, and preservation of patient records, which shall be treated as medical records under chapter 458.

Reviser's note.—Amended to correct an erroneous reference added by s. 15, ch. 2007-230, Laws of Florida. Section 390.001 was redesignated as s. 390.0111 by s. 2, ch. 97-151, Laws of Florida. Section 390.011 provides definitions for the range of sections in the cross-reference.

Section 97. Subsection (3) of section 390.014, Florida Statutes, is amended to read:

390.014 Licenses; fees.—

(3) In accordance with s. 408.805, an applicant or licensee shall pay a fee for each license application submitted under this chapter ~~part~~ and part II of chapter 408. The amount of the fee shall be established by rule and may not be less than $70 or more than $500.

Reviser's note.—Amended to correct an erroneous reference; chapter 390 is not divided into parts.

Section 98. Section 390.018, Florida Statutes, is amended to read:

390.018 Administrative fine.—In addition to the requirements of part II of chapter 408, the agency may impose a fine upon the clinic in an amount not to exceed $1,000 for each violation of any provision of this chapter ~~part~~, part II of chapter 408, or applicable rules.

Reviser's note.—Amended to correct an erroneous reference; chapter 390 is not divided into parts.

Section 99. Section 393.23, Florida Statutes, is amended to read:

393.23 Developmental disabilities institutions; trust accounts.—All receipts from the operation of canteens, vending machines, hobby shops, sheltered workshops, activity centers, farming projects, and other like activities operated in a developmental disabilities institution, and moneys donated to the institution, must be deposited in a trust account in any bank, credit union, or savings and loan association authorized by the State Treasury as a qualified depository ~~depositor~~ to do business in this state, if the moneys are available on demand.

(1) Moneys in the trust account must be expended for the benefit, education, and welfare of clients. However, if specified, moneys that are donated to the institution must be expended in accordance with the intentions of the donor. Trust account money may not be used for the benefit of employees of the agency or to pay the wages of such employees. The welfare of the clients includes the expenditure of funds for the purchase of items for resale at canteens or vending machines, and for the establishment of, maintenance of, and operation of canteens, hobby shops, recreational or entertainment facilities, sheltered workshops, activity centers, farming projects, or other like facilities or programs established at the institutions for the benefit of clients.

(2) The institution may invest, in the manner authorized by law for fiduciaries, any money in a trust account which is not necessary for immediate use. The interest earned and other increments derived from the investments of the money must be deposited into the trust account for the benefit of clients.

(3) The accounting system of an institution must account separately for revenues and expenses for each activity. The institution shall reconcile the trust account to the institution's accounting system and check registers and to the accounting system of the Chief Financial Officer.

(4) All sales taxes collected by the institution as a result of sales shall be deposited into the trust account and remitted to the Department of Revenue.

(5) Funds shall be expended in accordance with requirements and guidelines established by the Chief Financial Officer.

Reviser's note.—Amended to confirm the editorial substitution of the word "depository" for the word "depositor" to correct an apparent error and facilitate correct interpretation.

Section 100. Paragraph (a) of subsection (4) of section 395.402, Florida Statutes, is amended to read:

395.402 Trauma service areas; number and location of trauma centers.—

(4) Annually thereafter, the department shall review the assignment of the 67 counties to trauma service areas, in addition to the requirements of paragraphs (2)(b)-(g) and subsection (3). County assignments are made for the purpose of developing a system of trauma centers. Revisions made by the department shall take into consideration the recommendations made as part of the regional trauma system plans approved by the department and the recommendations made as part of the state trauma system plan. In cases where a trauma service area is located within the boundaries of more than one trauma region, the trauma service area's needs, response capability, and system requirements shall be considered by each trauma region served by that trauma service area in its regional system plan. Until the department completes the February 2005 assessment, the assignment of counties shall remain as established in this section.

(a) The following trauma service areas are hereby established:

1. Trauma service area 1 shall consist of Escambia, Okaloosa, Santa Rosa, and Walton Counties.

2. Trauma service area 2 shall consist of Bay, Gulf, Holmes, and Washington Counties.

3. Trauma service area 3 shall consist of Calhoun, Franklin, Gadsden, Jackson, Jefferson, Leon, Liberty, Madison, Taylor, and Wakulla Counties.

4. Trauma service area 4 shall consist of Alachua, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy, Putnam, Suwannee, and Union Counties.

5. Trauma service area 5 shall consist of Baker, Clay, Duval, Nassau, and St. Johns Counties.

6. Trauma service area 6 shall consist of Citrus, Hernando, and Marion Counties.

7. Trauma service area 7 shall consist of Flagler and Volusia Counties.

8. Trauma service area 8 shall consist of Lake, Orange, Osceola, Seminole, and Sumter Counties.

9. Trauma service area 9 shall consist of Pasco and Pinellas Counties.

10. Trauma service area 10 shall consist of Hillsborough County.

11. Trauma service area 11 shall consist of Hardee, Highlands, and Polk Counties.

12. Trauma service area 12 shall consist of Brevard and Indian River Counties.

13. Trauma service area 13 shall consist of DeSoto, Manatee, and Sarasota Counties.

14. Trauma service area 14 shall consist of Martin, Okeechobee, and St. Lucie Counties.

15. Trauma service area 15 shall consist of Charlotte, Glades, Hendry, and Lee Counties.

16. Trauma service area 16 shall consist of Palm Beach County.

17. Trauma service area 17 shall consist of Collier County.

18. Trauma service area 18 shall consist of Broward County.

19. Trauma service area 19 shall consist of Miami-Dade ~~Dade~~ and Monroe Counties.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 101. Subsection (1) of section 400.063, Florida Statutes, is amended to read:

400.063 Resident Protection Trust Fund.—

(1) A Resident Protection Trust Fund shall be established for the purpose of collecting and disbursing funds generated from the license fees and administrative fines as provided for in ss. 393.0673(3) ~~393.0673(2)~~, 400.062(3), 400.121(2), and 400.23(8). Such funds shall be for the sole purpose of paying for the appropriate alternate placement, care, and treatment of residents who are removed from a facility licensed under this part or a facility specified in s. 393.0678(1) in which the agency determines that existing conditions or practices constitute an immediate danger to the health, safety, or security of the residents. If the agency determines that it is in the best interest of the health, safety, or security of the residents to provide for an orderly removal of the residents from the facility, the agency may utilize such funds to maintain and care for the residents in the facility pending removal and alternative placement. The maintenance and care of the residents shall be under the direction and control of a receiver appointed pursuant to s. 393.0678(1) or s. 400.126(1). However, funds may be expended in an emergency upon a filing of a petition for a receiver, upon the declaration of a state of local emergency pursuant to s. 252.38(3)(a)5., or upon a duly authorized local order of evacuation of a facility by emergency personnel to protect the health and safety of the residents.

Reviser's note.—Amended to conform to the redesignation of s. 393.0673(2) as s. 393.0673(3) by s. 20, ch. 2006-227, Laws of Florida.

Section 102. Subsection (1) of section 400.0712, Florida Statutes, is amended to read:

400.0712 Application for inactive license.—

(1) As specified in s. 408.831(4) ~~408.321(4)~~ and this section, the agency may issue an inactive license to a nursing home facility for all or a portion of its beds. Any request by a licensee that a nursing home or portion of a nursing home become inactive must be submitted to the agency in the approved format. The facility may not initiate any suspension of services, notify residents, or initiate inactivity before receiving approval from the agency; and a licensee that violates this provision may not be issued an inactive license.

Reviser's note.—Amended to confirm the editorial substitution of a reference to s. 408.831(4) for a reference to nonexistent s. 408.321(4); s. 408.831(4) relates to issuance of inactive licenses.

Section 103. Subsections (3) and (12) of section 400.506, Florida Statutes, are amended to read:

400.506 Licensure of nurse registries; requirements; penalties.—

(3) In accordance with s. 408.805, an applicant or licensee shall pay a fee for each license application submitted under ss. 400.506-400.518 ~~400.508-~~

~~400.518~~, part II of chapter 408, and applicable rules. The amount of the fee shall be established by rule and may not exceed $2,000 per biennium.

(12) Each nurse registry shall prepare and maintain a comprehensive emergency management plan that is consistent with the criteria in this subsection and with the local special needs plan. The plan shall be updated annually. The plan shall include the means by which the nurse registry will continue to provide the same type and quantity of services to its patients who evacuate to special needs shelters which were being provided to those patients prior to evacuation. The plan shall specify how the nurse registry shall facilitate the provision of continuous care by persons referred for contract to persons who are registered pursuant to s. 252.355 during an emergency that interrupts the provision of care or services in private residences. Nurse registries may establish links to local emergency operations centers to determine a mechanism by which to approach specific areas within a disaster area in order for a provider to reach its clients. Nurse registries shall demonstrate a good faith effort to comply with the requirements of this subsection by documenting attempts of staff to follow procedures outlined in the nurse registry's comprehensive emergency management plan which support a finding that the provision of continuing care has been attempted for patients identified as needing care by the nurse registry and registered under s. 252.355 in the event of an emergency under this 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.—Subsection (3) is amended to correct an erroneous reference. Section 400.508 does not exist; ss. 400.506-400.518 relate to licensing requirements, and the range appears elsewhere in the section as amended by s. 80, ch. 2007-230, Laws of Florida. Subsection (12) is amended to correct an erroneous reference. Subsection (1) does not reference emergencies; subsection (12) provides for a comprehensive emergency management plan.

Section 104. Subsection (5) of section 400.995, Florida Statutes, is amended to read:

400.995 Agency administrative penalties.—

(5) Any clinic whose owner fails to apply for a change-of-ownership license ~~in accordance with s. 400.992~~ and operates the clinic under the new ownership is subject to a fine of $5,000.

Reviser's note.—Amended to conform to the repeal of s. 400.992 by s. 125, ch. 2007-230, Laws of Florida.

Section 105. Paragraph (a) of subsection (13) of section 403.031, Florida Statutes, is amended to read:

403.031 Definitions.—In construing this chapter, or rules and regulations adopted pursuant hereto, the following words, phrases, or terms, unless the context otherwise indicates, have the following meanings:

(13) "Waters" include, but are not limited to, rivers, lakes, streams, springs, impoundments, wetlands, and all other waters or bodies of water, including fresh, brackish, saline, tidal, surface, or underground waters. Waters owned entirely by one person other than the state are included only in regard to possible discharge on other property or water. Underground waters include, but are not limited to, all underground waters passing through pores of rock or soils or flowing through in channels, whether manmade or natural. Solely for purposes of s. 403.0885, waters of the state also include

navigable waters or waters of the contiguous zone as used in s. 502 of the Clean Water Act, as amended, 33 U.S.C. ss. 1251 et seq., as in existence on January 1, 1993, except for those navigable waters seaward of the boundaries of the state set forth in s. 1, Art. II of the State Constitution. Solely for purposes of this chapter, waters of the state also include the area bounded by the following:

(a) Commence at the intersection of State Road (SRD) 5 (U.S. 1) and the county line dividing Miami-Dade ~~Dade~~ and Monroe Counties, said point also being the mean high-water line of Florida Bay, located in section 4, township 60 south, range 39 east of the Tallahassee Meridian for the point of beginning. From said point of beginning, thence run northwesterly along said SRD 5 to an intersection with the north line of section 18, township 58 south, range 39 east; thence run westerly to a point marking the southeast corner of section 12, township 58 south, range 37 east, said point also lying on the east boundary of the Everglades National Park; thence run north along the east boundary of the aforementioned Everglades National Park to a point marking the northeast corner of section 1, township 58 south, range 37 east; thence run west along said park to a point marking the northwest corner of said section 1; thence run northerly along said park to a point marking the northwest corner of section 24, township 57 south, range 37 east; thence run westerly along the south lines of sections 14, 15, and 16 to the southwest corner of section 16; thence leaving the Everglades National Park boundary run northerly along the west line of section 16 to the northwest corner of section 16; thence east along the northerly line of section 16 to a point at the intersection of the east one-half and west one-half of section 9; thence northerly along the line separating the east one-half and the west one-half of sections 9, 4, 33, and 28; thence run easterly along the north line of section 28 to the northeast corner of section 28; thence run northerly along the west line of section 22 to the northwest corner of section 22; thence easterly along the north line of section 22 to a point at the intersection of the east one-half and west one-half of section 15; thence run northerly along said line to the point of intersection with the north line of section 15; thence easterly along the north line of section 15 to the northeast corner of section 15; thence run northerly along the west lines of sections 11 and 2 to the northwest corner of section 2; thence run easterly along the north lines of sections 2 and 1 to the northeast corner of section 1, township 56 south, range 37 east; thence run north along the east line of section 36, township 55 south, range 37 east to the northeast corner of section 36; thence run west along the north line of section 36 to the northwest corner of section 36; thence run north along the west line of section 25 to the northwest corner of section 25; thence run west along the north line of section 26 to the northwest corner of section 26; thence run north along the west line of section 23 to the northwest corner of section 23; thence run easterly along the north line of section 23 to the northeast corner of section 23; thence run north along the west line of section 13 to the northwest corner of section 13; thence run east along the north line of section 13 to a point of intersection with the west line of the southeast one-quarter of section 12; thence run north along the west line of the southeast one-quarter of section 12 to the northwest corner of the southeast one-quarter of section 12; thence run east along the north line of the southeast one-quarter of section 12 to the point of intersection with the east line of section 12; thence run east along the south line of the northwest one-quarter

of section 7 to the southeast corner of the northwest one-quarter of section 7; thence run north along the east line of the northwest one-quarter of section 7 to the point of intersection with the north line of section 7; thence run northerly along the west line of the southeast one-quarter of section 6 to the northwest corner of the southeast one-quarter of section 6; thence run east along the north lines of the southeast one-quarter of section 6 and the southwest one-quarter of section 5 to the northeast corner of the southwest one-quarter of section 5; thence run northerly along the east line of the northwest one-quarter of section 5 to the point of intersection with the north line of section 5; thence run northerly along the line dividing the east one-half and the west one-half of Lot 5 to a point intersecting the north line of Lot 5; thence run east along the north line of Lot 5 to the northeast corner of Lot 5, township 54 ½ south, range 38 east; thence run north along the west line of section 33, township 54 south, range 38 east to a point intersecting the northwest corner of the southwest one-quarter of section 33; thence run easterly along the north line of the southwest one-quarter of section 33 to the northeast corner of the southwest one-quarter of section 33; thence run north along the west line of the northeast one-quarter of section 33 to a point intersecting the north line of section 33; thence run easterly along the north line of section 33 to the northeast corner of section 33; thence run northerly along the west line of section 27 to a point intersecting the northwest corner of the southwest one-quarter of section 27; thence run easterly to the northeast corner of the southwest one-quarter of section 27; thence run northerly along the west line of the northeast one-quarter of section 27 to a point intersecting the north line of section 27; thence run west along the north line of section 27 to the northwest corner of section 27; thence run north along the west lines of sections 22 and 15 to the northwest corner of section 15; thence run easterly along the north lines of sections 15 and 14 to the point of intersection with the L-31N Levee, said intersection located near the southeast corner of section 11, township 54 south, range 38 east; thence run northerly along Levee L-31N crossing SRD 90 (U.S. 41 Tamiami Trail) to an intersection common to Levees L-31N, L-29, and L-30, said intersection located near the southeast corner of section 2, township 54 south, range 38 east; thence run northeasterly, northerly, and northeasterly along Levee L-30 to a point of intersection with the Miami-Dade/Broward ~~Dade/Broward~~ Levee, said intersection located near the northeast corner of section 17, township 52 south, range 39 east; thence run due east to a point of intersection with SRD 27 (Krome Ave.); thence run northeasterly along SRD 27 to an intersection with SRD 25 (U.S. 27), said intersection located in section 3, township 52 south, range 39 east; thence run northerly along said SRD 25, entering into Broward County, to an intersection with SRD 84 at Andytown; thence run southeasterly along the aforementioned SRD 84 to an intersection with the southwesterly prolongation of Levee L-35A, said intersection being located in the northeast one-quarter of section 5, township 50 south, range 40 east; thence run northeasterly along Levee L-35A to an intersection of Levee L-36, said intersection located near the southeast corner of section 12, township 49 south, range 40 east; thence run northerly along Levee L-36, entering into Palm Beach County, to an intersection common to said Levees L-36, L-39, and L-40, said intersection located near the west quarter corner of section 19, township 47 south, range 41 east; thence run northeasterly, easterly, and northerly along Levee L-40, said

Levee L-40 being the easterly boundary of the Loxahatchee National Wildlife Refuge, to an intersection with SRD 80 (U.S. 441), said intersection located near the southeast corner of section 32, township 43 south, range 40 east; thence run westerly along the aforementioned SRD 80 to a point marking the intersection of said road and the northeasterly prolongation of Levee L-7, said Levee L-7 being the westerly boundary of the Loxahatchee National Wildlife Refuge; thence run southwesterly and southerly along said Levee L-7 to an intersection common to Levees L-7, L-15 (Hillsborough Canal), and L-6; thence run southwesterly along Levee L-6 to an intersection common to Levee L-6, SRD 25 (U.S. 27), and Levee L-5, said intersection being located near the northwest corner of section 27, township 47 south, range 38 east; thence run westerly along the aforementioned Levee L-5 to a point intersecting the east line of range 36 east; thence run northerly along said range line to a point marking the northeast corner of section 1, township 47 south, range 36 east; thence run westerly along the north line of township 47 south, to an intersection with Levee L-23/24 (Miami Canal); thence run northwesterly along the Miami Canal Levee to a point intersecting the north line of section 22, township 46 south, range 35 east; thence run westerly to a point marking the northwest corner of section 21, township 46 south, range 35 east; thence run southerly to the southwest corner of said section 21; thence run westerly to a point marking the northwest corner of section 30, township 46 south, range 35 east, said point also being on the line dividing Palm Beach and Hendry Counties; from said point, thence run southerly along said county line to a point marking the intersection of Broward, Hendry, and Collier Counties, said point also being the northeast corner of section 1, township 49 south, range 34 east; thence run westerly along the line dividing Hendry and Collier Counties and continuing along the prolongation thereof to a point marking the southwest corner of section 36, township 48 south, range 29 east; thence run southerly to a point marking the southwest corner of section 12, township 49 south, range 29 east; thence run westerly to a point marking the southwest corner of section 10, township 49 south, range 29 east; thence run southerly to a point marking the southwest corner of section 15, township 49 south, range 29 east; thence run westerly to a point marking the northwest corner of section 24, township 49 south, range 28 east, said point lying on the west boundary of the Big Cypress Area of Critical State Concern as described in rule 28-25.001, Florida Administrative Code; thence run southerly along said boundary crossing SRD 84 (Alligator Alley) to a point marking the southwest corner of section 24, township 50 south, range 28 east; thence leaving the aforementioned west boundary of the Big Cypress Area of Critical State Concern run easterly to a point marking the northeast corner of section 25, township 50 south, range 28 east; thence run southerly along the east line of range 28 east to a point lying approximately 0.15 miles south of the northeast corner of section 1, township 52 south, range 28 east; thence run southwesterly 2.4 miles more or less to an intersection with SRD 90 (U.S. 41 Tamiami Trail), said intersection lying 1.1 miles more or less west of the east line of range 28 east; thence run northwesterly and westerly along SRD 90 to an intersection with the west line of section 10, township 52 south, range 28 east; thence leaving SRD 90 run southerly to a point marking the southwest corner of section 15, township 52 south, range 28 east; thence run westerly crossing the Faka Union Canal 0.6 miles more or less to a point; thence run

southerly and parallel to the Faka Union Canal to a point located on the mean high-water line of Faka Union Bay; thence run southeasterly along the mean high-water line of the various bays, rivers, inlets, and streams to the point of beginning.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 106. Subsection (2) of section 403.201, Florida Statutes, is amended to read:

403.201 Variances.—

(2) No variance shall be granted from any provision or requirement concerning discharges of waste into waters of the state or hazardous waste management which would result in the provision or requirement being less stringent than a comparable federal provision or requirement, except as provided in s. 403.70715 ~~403.7221~~.

Reviser's note.—Amended to conform to the redesignation of s. 403.7221 as s. 403.70715 by s. 20, ch. 2007-184, Laws of Florida.

Section 107. Paragraph (a) of subsection (6) of section 403.707, Florida Statutes, is amended to read:

403.707 Permits.—

(6) The department may issue a construction permit pursuant to this part only to a solid waste management facility that provides the conditions necessary to control the safe movement of wastes or waste constituents into surface or ground waters or the atmosphere and that will be operated, maintained, and closed by qualified and properly trained personnel. Such facility must if necessary:

(a) Use natural or artificial barriers that ~~which~~ are capable of controlling lateral or vertical movement of wastes or waste constituents into surface or ground waters.

Open fires, air-curtain incinerators, or trench burning may not be used as a means of disposal at a solid waste management facility, unless permitted by the department under s. 403.087.

Reviser's note.—Amended to confirm the editorial deletion of the word "which" following the word "that" to correct a drafting error that occurred in the amendment to the section by s. 12, ch. 2007-184, Laws of Florida.

Section 108. Subsections (1),(2), and (3) of section 403.890, Florida Statutes, as amended by section 2 of chapter 2007-335, Laws of Florida, are amended to read:

403.890 Water Protection and Sustainability Program; intent; goals; purposes.—

(1) Effective July 1, 2006, revenues transferred from the Department of Revenue pursuant to s. 201.15(1)(d)2. shall be deposited into the Water Protection and Sustainability Program Trust Fund in the Department of Environmental Protection. These revenues and any other additional revenues deposited into or appropriated to the Water Protection and Sustainability Program Trust Fund shall be distributed by the Department of Environmental Protection in the following manner:

(a) Sixty percent to the Department of Environmental Protection for the implementation of an alternative water supply program as provided in s. 373.1961.

(b) Twenty percent for the implementation of best management practices and capital project expenditures necessary for the implementation of the goals of the total maximum daily load program established in s. 403.067. Of these funds, 85 percent shall be transferred to the credit of the Department of Environmental Protection Water Quality Assurance Trust Fund to address water quality impacts associated with nonagricultural nonpoint sources. Fifteen percent of these funds shall be transferred to the Department of Agriculture and Consumer Services General Inspection Trust Fund to address water quality impacts associated with agricultural nonpoint sources. These funds shall be used for research, development, demonstration, and implementation of the total maximum daily load program under s. 403.067, suitable best management practices or other measures used to achieve water quality standards in surface waters and water segments identified pursuant to s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. Implementation of best management practices and other measures may include cost-share grants, technical assistance, implementation tracking, and conservation leases or other agreements for water quality improvement. The Department of Environmental Protection and the Department of Agriculture and Consumer Services may adopt rules governing the distribution of funds for implementation of capital projects, best management practices, and other measures. These funds shall not be used to abrogate the financial responsibility of those point and nonpoint sources that have contributed to the degradation of water or land areas. Increased priority shall be given by the department and the water management district governing boards to those projects that have secured a cost-sharing agreement allocating responsibility for the cleanup of point and nonpoint sources.

(c) Ten percent shall be disbursed for the purposes of funding projects pursuant to ss. 373.451-373.459 or surface water restoration activities in water-management-district-designated priority water bodies. The Secretary of Environmental Protection shall ensure that each water management district receives the following percentage of funds annually:

1. Thirty-five percent to the South Florida Water Management District;

2. Twenty-five percent to the Southwest Florida Water Management District;

3. Twenty-five percent to the St. Johns River Water Management District;

4. Seven and one-half percent to the Suwannee River Water Management District; and

5. Seven and one-half percent to the Northwest Florida Water Management District.

(d) Ten percent to the Department of Environmental Protection for the Disadvantaged Small Community Wastewater Grant Program as provided in s. 403.1838.

(2) Applicable beginning in the 2007-2008 fiscal year, revenues transferred from the Department of Revenue pursuant to s. 201.15(1)(d)2. shall be deposited into the Water Protection and Sustainability Program Trust Fund in the Department of Environmental Protection. These revenues and any other additional revenues deposited into or appropriated to the Water Protection and Sustainability Program Trust Fund shall be distributed by the Department of Environmental Protection in the following manner:

(a) Sixty-five percent to the Department of Environmental Protection for the implementation of an alternative water supply program as provided in s. 373.1961.

(b) Twenty-two and five-tenths percent for the implementation of best management practices and capital project expenditures necessary for the implementation of the goals of the total maximum daily load program established in s. 403.067. Of these funds, 83.33 percent shall be transferred to the credit of the Department of Environmental Protection Water Quality Assurance Trust Fund to address water quality impacts associated with nonagricultural nonpoint sources. Sixteen and sixty-seven hundredths percent of these funds shall be transferred to the Department of Agriculture and Consumer Services General Inspection Trust Fund to address water quality impacts associated with agricultural nonpoint sources. These funds shall be used for research, development, demonstration, and implementation of the total maximum daily load program under s. 403.067, suitable best management practices or other measures used to achieve water quality standards in surface waters and water segments identified pursuant to s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. Implementation of best management practices and other measures may include cost-share grants, technical assistance, implementation tracking, and conservation leases or other agreements for water quality improvement. The Department of Environmental Protection and the Department of Agriculture and Consumer Services may adopt rules governing the distribution of funds for implementation of capital projects, best management practices, and other measures. These funds shall not be used to abrogate the financial responsibility of those point and nonpoint sources that have contributed to the degradation of water or land areas. Increased priority shall be given by the department and the water management district governing boards to those projects that have secured a cost-sharing agreement allocating responsibility for the cleanup of point and nonpoint sources.

(c) Twelve and five-tenths percent to the Department of Environmental Protection for the Disadvantaged Small Community Wastewater Grant Program as provided in s. 403.1838.

(d) On June 30, 2009, and every 24 months thereafter, the Department of Environmental Protection shall request the return of all unencumbered funds distributed pursuant to this section. These funds shall be deposited into the Water Protection and Sustainability Program Trust Fund and redistributed pursuant to the provisions of this section.

(3) For fiscal year 2005-2006, funds deposited or appropriated into the Water Protection and Sustainability Program Trust Fund shall be distributed as follows:

(a) One hundred million dollars to the Department of Environmental Protection for the implementation of an alternative water supply program as provided in s. 373.1961.

(b) Funds remaining after the distribution provided for in subsection (1) shall be distributed as follows:

1. Fifty percent for the implementation of best management practices and capital project expenditures necessary for the implementation of the goals of the total maximum daily load program established in s. 403.067. Of these funds, 85 percent shall be transferred to the credit of the Department of Environmental Protection Water Quality Assurance Trust Fund to address water quality impacts associated with nonagricultural nonpoint sources. Fifteen percent of these funds shall be transferred to the Department of Agriculture and Consumer Services General Inspection Trust Fund to address water quality impacts associated with agricultural nonpoint sources. These funds shall be used for research, development, demonstration, and implementation of suitable best management practices or other measures used to achieve water quality standards in surface waters and water segments identified pursuant to s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. Implementation of best management practices and other measures may include cost-share grants, technical assistance, implementation tracking, and conservation leases or other agreements for water quality improvement. The Department of Environmental Protection and the Department of Agriculture and Consumer Services may adopt rules governing the distribution of funds for implementation of best management practices. These funds shall not be used to abrogate the financial responsibility of those point and nonpoint sources that have contributed to the degradation of water or land areas. Increased priority shall be given by the department and the water management district governing boards to those projects that have secured a cost-sharing agreement allocating responsibility for the cleanup of point and nonpoint sources.

2. Twenty-five percent for the purposes of funding projects pursuant to ss. 373.451-373.459 or surface water restoration activities in water-management-district-designated priority water bodies. The Secretary of Environmental Protection shall ensure that each water management district receives the following percentage of funds annually:

a. Thirty-five percent to the South Florida Water Management District;

b. Twenty-five percent to the Southwest Florida Water Management District;

c. Twenty-five percent to the St. Johns River Water Management District;

d. Seven and one-half percent to the Suwannee River Water Management District; and

e. Seven and one-half percent to the Northwest Florida Water Management District.

3. Twenty-five percent to the Department of Environmental Protection for the Disadvantaged Small Community Wastewater Grant Program as provided in s. 403.1838.

Prior to the end of the 2008 Regular Session, the Legislature must review the distribution of funds under the Water Protection and Sustainability Program to determine if revisions to the funding formula are required. At the discretion of the President of the Senate and the Speaker of the House of Representatives, the appropriate substantive committees of the Legislature may conduct an interim project to review the Water Protection and Sustainability Program and the funding formula and make written recommendations to the Legislature proposing necessary changes, if any.

Reviser's note.—Amended to confirm the insertion of the word "Program" by the editors to conform to the name of the trust fund at s. 403.891, which creates the fund.

Section 109. Section 403.8911, Florida Statutes, is amended to read:

403.8911 Annual appropriation from the Water Protection and Sustainability Program Trust Fund.—

(1) Funds paid into the Water Protection and Sustainability Program Trust Fund pursuant to s. 201.15(1)(d) are hereby annually appropriated for expenditure for the purposes for which the Water Protection and Sustainability Program Trust Fund is established.

(2) If the Water Protection and Sustainability Program Trust Fund is not created, such funds are hereby annually appropriated for expenditure from the Ecosystem Management and Restoration Trust Fund solely for the purposes established in s. 403.890.

Reviser's note.—Amended to conform to the name of the trust fund at s. 403.891, which creates the fund.

Section 110. Subsections (6), (7), and (12) and paragraph (b) of subsection (13) of section 403.973, Florida Statutes, are amended to read:

403.973 Expedited permitting; comprehensive plan amendments.—

(6) The local government shall hold a duly noticed public hearing to execute a memorandum of agreement for each qualified project. Notwithstanding any other provision of law, and at the option of the local government, the workshop provided for in subsection (5) ~~(6)~~ may be conducted on

the same date as the public hearing held under this subsection. The memorandum of agreement that a local government signs shall include a provision identifying necessary local government procedures and time limits that will be modified to allow for the local government decision on the project within 90 days. The memorandum of agreement applies to projects, on a case-by-case basis, that qualify for special review and approval as specified in this section. The memorandum of agreement must make it clear that this expedited permitting and review process does not modify, qualify, or otherwise alter existing local government nonprocedural standards for permit applications, unless expressly authorized by law.

(7) At the option of the participating local government, appeals of its final approval for a project may be pursuant to the summary hearing provisions of s. 120.574, pursuant to subsection (14) ~~(15)~~, or pursuant to other appellate processes available to the local government. The local government's decision to enter into a summary hearing must be made as provided in s. 120.574 or in the memorandum of agreement.

(12) The applicant, the regional permit action team, and participating local governments may agree to incorporate into a single document the permits, licenses, and approvals that are obtained through the expedited permit process. This consolidated permit is subject to the summary hearing provisions set forth in subsection (14) ~~(15)~~.

(13) Notwithstanding any other provisions of law:

(b) Projects qualified under this section are not subject to interstate highway level-of-service standards adopted by the Department of Transportation for concurrency purposes. The memorandum of agreement specified in subsection (5) ~~(6)~~ must include a process by which the applicant will be assessed a fair share of the cost of mitigating the project's significant traffic impacts, as defined in chapter 380 and related rules. The agreement must also specify whether the significant traffic impacts on the interstate system will be mitigated through the implementation of a project or payment of funds to the Department of Transportation. Where funds are paid, the Department of Transportation must include in the 5-year work program transportation projects or project phases, in an amount equal to the funds received, to mitigate the traffic impacts associated with the proposed project.

Reviser's note.—Amended to conform to the repeal of former subsection (4) by s. 23, ch. 2007-105, Laws Of Florida.

Section 111. Subsection (5) of section 408.032, Florida Statutes, is amended to read:

408.032 Definitions relating to Health Facility and Services Development Act.—As used in ss. 408.031-408.045, the term:

(5) "District" means a health service planning district composed of the following counties:

District 1.—Escambia, Santa Rosa, Okaloosa, and Walton Counties.

District 2.—Holmes, Washington, Bay, Jackson, Franklin, Gulf, Gadsden, Liberty, Calhoun, Leon, Wakulla, Jefferson, Madison, and Taylor Counties.

District 3.—Hamilton, Suwannee, Lafayette, Dixie, Columbia, Gilchrist, Levy, Union, Bradford, Putnam, Alachua, Marion, Citrus, Hernando, Sumter, and Lake Counties.

District 4.—Baker, Nassau, Duval, Clay, St. Johns, Flagler, and Volusia Counties.

District 5.—Pasco and Pinellas Counties.

District 6.—Hillsborough, Manatee, Polk, Hardee, and Highlands Counties.

District 7.—Seminole, Orange, Osceola, and Brevard Counties.

District 8.—Sarasota, DeSoto, Charlotte, Lee, Glades, Hendry, and Collier Counties.

District 9.—Indian River, Okeechobee, St. Lucie, Martin, and Palm Beach Counties.

District 10.—Broward County.

District 11.—Miami-Dade ~~Dade~~ and Monroe Counties.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 112. Paragraph (b) of subsection (2) of section 409.166, Florida Statutes, is amended to read:

409.166 Children within the child welfare system; adoption assistance program.—

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

(b) "Adoption assistance" means financial assistance and services provided to a child and his or her adoptive family. Such assistance may include a maintenance subsidy, medical assistance, Medicaid assistance, and reimbursement of nonrecurring expenses associated with the legal adoption. The term also includes a tuition exemption at a postsecondary career program, community college, or state university, and a state employee adoption benefit under s. 409.1663 ~~110.152~~.

Reviser's note.—Amended to conform to the repeal of s. 110.152 by s. 3, ch. 2007-119, Laws of Florida, and the enactment of similar provisions in s. 409.1663 by s. 1, ch. 2007-119.

Section 113. Subsection (2) of section 409.1677, Florida Statutes, is amended to read:

409.1677 Model comprehensive residential services programs.—

(2) The department shall establish a model comprehensive residential services program in ~~Dade and~~ Manatee and Miami-Dade Counties through a contract with the designated lead agency established in accordance with s. 409.1671 or with a private entity capable of providing residential group care and home-based care and experienced in the delivery of a range of services to foster children, if no lead agency exists. These model programs are to serve that portion of eligible children within each county which is specified in the contract, based on funds appropriated, to include a full array of services for a fixed price. The private entity or lead agency is responsible for all programmatic functions necessary to carry out the intent of this section.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 114. Subsection (2) of section 409.25661, Florida Statutes, is amended to read:

409.25661 Public records exemption for insurance claim data exchange information.—

(2) This section is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 115. Subsection (4) of section 413.271, Florida Statutes, is repealed.

Reviser's note.—Repealed to delete obsolete provisions. The cited subsection provided that the Florida Coordinating Council for the Deaf and Hard of Hearing provide reports and recommendations by January 1, 2005, and January 1, 2006.

Section 116. Paragraph (d) of subsection (12) of section 420.5095, Florida Statutes, is amended to read:

420.5095 Community Workforce Housing Innovation Pilot Program.—

(12) All eligible applications shall:

(d) Have grants, donations of land, or contributions from the public-private partnership or other sources collectively totaling at least 10 percent of the total development cost or $2 million, whichever is less. Such grants, donations of land, or contributions must be evidenced by a letter of commitment, ~~an~~ agreement, contract, deed, memorandum of understanding, or other written instrument at the time of application. Grants, donations of land, or contributions in excess of 10 percent of the development cost shall increase the application score.

Reviser's note.—Amended to confirm the editorial deletion of the word "an" following the word "commitment" to correct sentence construction.

Section 117. Subsection (2) of section 420.9076, Florida Statutes, is amended to read:

420.9076 Adoption of affordable housing incentive strategies; committees.—

(2) The governing board of a county or municipality shall appoint the members of the affordable housing advisory committee by resolution. Pursuant to the terms of any interlocal agreement, a county and municipality may create and jointly appoint an advisory committee to prepare a joint plan. The ordinance adopted pursuant to s. 420.9072 which creates the advisory committee or the resolution appointing the advisory committee members must provide for 11 committee members and their terms. The committee must include:

(a) One citizen who is actively engaged in the residential home building industry in connection with affordable housing.

(b) One citizen who is actively engaged in the banking or mortgage banking industry in connection with affordable housing.

(c) One citizen who is a representative of those areas of labor actively engaged in home building in connection with affordable housing.

(d) One citizen who is actively engaged as an advocate for low-income persons in connection with affordable housing.

(e) One citizen who is actively engaged as a for-profit provider of affordable housing.

(f) One citizen who is actively engaged as a not-for-profit provider of affordable housing.

(g) One citizen who is actively engaged as a real estate professional in connection with affordable housing.

(h) One citizen who actively serves on the local planning agency pursuant to s. 163.3174.

(i) One citizen who resides within the jurisdiction of the local governing body making the appointments.

(j) One citizen who represents employers within the jurisdiction.

(k) One citizen who represents essential services personnel, as defined in the local housing assistance plan.

If a county or eligible municipality whether due to its small size, the presence of a conflict of interest by prospective appointees, or other reasonable factor, is unable to appoint a citizen actively engaged in these activities in connection with affordable housing, a citizen engaged in the activity without

regard to affordable housing may be appointed. Local governments that receive the minimum allocation under the State Housing Initiatives Partnership Program may elect to appoint an affordable housing advisory committee with fewer than 11 representatives if they are unable to find representatives who ~~that~~ meet the criteria of paragraphs (a)-(k).

Reviser's note.—Amended to confirm the editorial substitution of the word "who" for the word "that" to improve clarity and facilitate correct interpretation.

Section 118. 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 required under s. 408.811 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 ~~I~~ of chapter 400, 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 correct an erroneous reference. "Planning and service area" is defined in part II of chapter 400.

Section 119. Subsection (1) of section 429.907, Florida Statutes, is amended to read:

429.907 License requirement; fee; exemption; display.—

(1) The requirements of part II of chapter 408 apply to the provision of services that require licensure pursuant to this part and part II of chapter 408 and to entities licensed by or applying for such licensure from the Agency for Health Care Administration pursuant to this part. A license issued by the agency is required in order to operate an adult day care center in this state.

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

Section 120. Subsection (4) of section 440.3851, Florida Statutes, is amended to read:

440.3851 Public records and public meetings exemptions.—

(4) This section is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 121. Paragraph (i) of subsection (5) of section 445.004, Florida Statutes, is repealed.

Reviser's note.—The referenced subsection, which relates to Enterprise Florida, Inc., working with the Department of Education and Workforce Florida, Inc., in designating districts to participate in the CHOICE project under repealed s. 1003.494, has served its purpose.

Section 122. Section 446.43, Florida Statutes, is amended to read:

446.43 Scope and coverage of Rural Workforce Services Program.—The scope of the area to be covered by the Rural Workforce Services Program will include all counties of the state not classified as standard metropolitan statistical areas (SMSA) by the United States Department of Labor Manpower Administration. Florida's designated SMSA labor areas include: Broward, Miami-Dade ~~Dade~~, Duval, Escambia, Hillsborough, Pinellas, Leon, Orange, and Palm Beach Counties.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 123. Paragraph (g) of subsection (1) of section 468.832, Florida Statutes, is amended to read:

468.832 Disciplinary proceedings.—

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

(g) Engaging in fraud or deceit, or ~~of~~ negligence, incompetency, or misconduct, in the practice of home inspection services;

Reviser's note.—Amended to confirm the editorial deletion of the word "of" preceding the word "negligence" to correct sentence structure and facilitate correct interpretation.

Section 124. Paragraph (c) of subsection (1) of section 468.8419, Florida Statutes, is amended to read:

468.8419 Prohibitions; penalties.—

(1) A mold assessor, a company that employs a mold assessor, or a company that is controlled by a company that also has a financial interest in a company employing a mold assessor may not:

(c) Use the name or title "certified mold assessor," "registered mold assessor," "licensed mold assessor," "mold assessor," "professional mold assessor," or any combination thereof unless the person has complied with the provisions of this part.

Reviser's note.—Amended to confirm the editorial insertion of the word "of" to correct sentence structure.

Section 125. Paragraph (g) of subsection (1) of section 468.842, Florida Statutes, is amended to read:

468.842 Disciplinary proceedings.—

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

(g) Engaging in fraud or deceit, or ~~of~~ negligence, incompetency, or misconduct, in the practice of mold assessment or mold remediation;

Reviser's note.—Amended to confirm the editorial deletion of the word "of" preceding the word "negligence" to correct sentence structure and facilitate correct interpretation.

Section 126. Subsection (5) of section 477.0135, Florida Statutes, is amended to read:

477.0135 Exemptions.—

(5) A license is not required of any individual providing makeup, special effects, or cosmetology services to an actor, stunt person, musician, extra, or other talent during a production recognized by the Office of Film and Entertainment as a qualified production as defined in s. 288.1254(1) ~~288.1254(2)~~. Such services are not required to be performed in a licensed salon. Individuals exempt under this subsection may not provide such services to the general public.

Reviser's note.—Amended to conform to the substantial rewording of s. 288.1254 by s. 2, ch. 2007-125, Laws of Florida; s. 288.1254(1) now defines a qualified production.

Section 127. Subsection (6) of section 481.215, Florida Statutes, is amended to read:

481.215 Renewal of license.—

(6) The board shall require, by rule adopted pursuant to ss. 120.536(1) and 120.54, a specified number of hours in specialized or advanced courses, approved by the Florida Building Commission, on any portion of the Florida Building Code, adopted pursuant to part IV ~~VII~~ of chapter 553, relating to the licensee's respective area of practice.

Reviser's note.—Amended to correct an erroneous reference. Part VII of chapter 553 relates to standards for radon-resistant buildings; part IV of chapter 553 relates to the Florida Building Code.

Section 128. Subsection (6) of section 481.313, Florida Statutes, is amended to read:

481.313 Renewal of license.—

(6) The board shall require, by rule adopted pursuant to ss. 120.536(1) and 120.54, a specified number of hours in specialized or advanced courses, approved by the Florida Building Commission, on any portion of the Florida Building Code, adopted pursuant to part IV ~~VII~~ of chapter 553, relating to the licensee's respective area of practice.

Reviser's note.—Amended to correct an erroneous reference. Part VII of chapter 553 relates to standards for radon-resistant buildings; part IV of chapter 553 relates to the Florida Building Code.

Section 129. Subsection (1) of section 487.048, Florida Statutes, is amended to read:

487.048 Dealer's license; records.—

(1) Each person holding or offering for sale, selling, or distributing restricted-use pesticides shall obtain a dealer's license from the department. Application for the license shall be made on a form prescribed by the department. The license must be obtained before entering into business or transferring ownership of a business. The department may require examination or other proof of competency of individuals to whom licenses are issued or of individuals employed by persons to whom licenses are issued. Demonstration of continued competency may be required for license renewal, as set by rule. The license shall be renewed annually as provided by rule. An annual license fee not exceeding $250 shall be established by rule. However, a user of a restricted-use pesticide may distribute unopened containers of a properly labeled pesticide to another user who is legally entitled to use that restricted-use pesticide without obtaining a pesticide dealer's license. The exclusive purpose of distribution of the restricted-use pesticide is to keep it from becoming a hazardous waste as defined in s. 403.703(13) ~~403.703(21)~~.

Reviser's note.—Amended to conform to the substantial rewording of s. 403.703 by s. 6, ch. 2007-184, Laws of Florida; s. 403.703(13) now defines hazardous waste.

Section 130. Paragraph (b) of subsection (4) and subsection (9) of section 489.115, Florida Statutes, are amended to read:

489.115 Certification and registration; endorsement; reciprocity; renewals; continuing education.—

(4)

(b)1. Each certificateholder or registrant shall provide proof, in a form established by rule of the board, that the certificateholder or registrant has completed at least 14 classroom hours of at least 50 minutes each of continuing education courses during each biennium since the issuance or renewal of the certificate or registration. The board shall establish by rule that a portion of the required 14 hours must deal with the subject of workers' compensation, business practices, workplace safety, and, for applicable licensure categories, wind mitigation methodologies, and 1 hour of which must deal with laws and rules. The board shall by rule establish criteria for the approval of continuing education courses and providers, including requirements relating to the content of courses and standards for approval of providers, and may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis. The board shall prescribe by rule the continuing education, if any, which is required during the first biennium of initial licensure. A person who has been licensed for

less than an entire biennium must not be required to complete the full 14 hours of continuing education.

2. In addition, the board may approve specialized continuing education courses on compliance with the wind resistance provisions for one and two family dwellings contained in the Florida Building Code and any alternate methodologies for providing such wind resistance which have been approved for use by the Florida Building Commission. Division I certificateholders or registrants who demonstrate proficiency upon completion of such specialized courses may certify plans and specifications for one and two family dwellings to be in compliance with the code or alternate methodologies, as appropriate, except for dwellings located in floodways or coastal hazard areas as defined in ss. 60.3D and E of the National Flood Insurance Program.

3. Each certificateholder or registrant shall provide to the board proof of completion of the core curriculum courses, or passing the equivalency test of the Building Code Training Program established under s. 553.841, specific to the licensing category sought, within 2 years after commencement of the program or of initial certification or registration, whichever is later. Classroom hours spent taking core curriculum courses shall count toward the number required for renewal of certificates or registration. A certificateholder or registrant who passes the equivalency test in lieu of taking the core curriculum courses shall receive full credit for core curriculum course hours.

4. The board shall require, by rule adopted pursuant to ss. 120.536(1) and 120.54, a specified number of hours in specialized or advanced module courses, approved by the Florida Building Commission, on any portion of the Florida Building Code, adopted pursuant to part IV ~~VII~~ of chapter 553, relating to the contractor's respective discipline.

(9) An initial applicant shall submit, along with the application, a complete set of fingerprints in a form and manner required by the department. The fingerprints shall be submitted to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward them to the Federal Bureau of Investigation for the purpose of conducting a level 2 background check pursuant to s. 435.04. The department shall and the board may review the background results to determine if an applicant meets licensure requirements. The cost for the fingerprint processing shall be borne by the person subject to the background screening. These fees are to be collected by the authorized agencies or vendors. The authorized agencies or vendors are responsible for paying the processing costs to the Department of Law Enforcement.

Reviser's note.—Paragraph (4)(b) is amended to correct an erroneous reference. Part VII of chapter 553 relates to standards for radon-resistant buildings; part IV of chapter 553 relates to the Florida Building Code. Subsection (9) is amended to confirm the editorial insertion of the word "of" to correct sentence construction.

Section 131. Paragraph (h) of subsection (1) of section 489.127, Florida Statutes, is amended to read:

489.127 Prohibitions; penalties.—

(1) No person shall:

(h) Commence or perform work for which a building permit is required pursuant to part IV ~~VII~~ of chapter 553 without such building permit being in effect; or

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 issued under the authority of chapter 205 is not a license for purposes of this part.

Reviser's note.—Amended to correct an erroneous reference. Part VII of chapter 553 relates to standards for radon-resistant buildings; part IV of chapter 553 relates to the Florida Building Code and required building permits.

Section 132. Subsection (6) of section 489.517, Florida Statutes, is amended to read:

489.517 Renewal of certificate or registration; continuing education.—

(6) The board shall require, by rule adopted pursuant to ss. 120.536(1) and 120.54, a specialized number of hours in specialized or advanced module courses, approved by the Florida Building Commission, on any portion of the Florida Building Code, adopted pursuant to part IV ~~VII~~ of chapter 553, relating to the contractor's respective discipline.

Reviser's note.—Amended to correct an erroneous reference. Part VII of chapter 553 relates to standards for radon-resistant buildings; part IV of chapter 553 relates to the Florida Building Code.

Section 133. Paragraph (i) of subsection (1) of section 489.531, Florida Statutes, is amended to read:

489.531 Prohibitions; penalties.—

(1) A person may not:

(i) Commence or perform work for which a building permit is required pursuant to part IV ~~VII~~ of chapter 553 without the building permit being in effect; or

Reviser's note.—Amended to correct an erroneous reference. Part VII of chapter 553 relates to standards for radon-resistant buildings; part IV of chapter 553 relates to the Florida Building Code.

Section 134. Subsection (5) of section 497.172, Florida Statutes, is amended to read:

497.172 Public records exemptions; public meetings exemptions.—

(5) REVIEW AND REPEAL.—This section is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15, and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 135. Subsection (3) of section 497.271, Florida Statutes, is amended to read:

497.271 Standards for construction and significant alteration or renovation of mausoleums and columbaria.—

(3) The licensing authority shall transmit the rules as adopted under subsection (2), hereinafter referred to as the "mausoleum standards," to the Florida Building Commission, which shall initiate rulemaking under chapter 120 to consider such mausoleum standards. If such mausoleum standards are not deemed acceptable, they shall be returned by the Florida Building Commission to the licensing authority with details of changes needed to make them acceptable. If such mausoleum standards are acceptable, the Florida Building Commission shall adopt a rule designating the mausoleum standards as an approved revision to the State Minimum Building Codes under part IV ~~VII~~ of chapter 553. When so designated by the Florida Building Commission, such mausoleum standards shall become a required element of the State Minimum Building Codes under s. 553.73(2) and shall be transmitted to each local enforcement agency, as defined in s. 553.71(5). Such local enforcement agency shall consider and inspect for compliance with such mausoleum standards as if they were part of the local building code, but shall have no continuing duty to inspect after final approval of the construction pursuant to the local building code. Any further amendments to the mausoleum standards shall be accomplished by the same procedure. Such designated mausoleum standards, as from time to time amended, shall be a part of the State Minimum Building Codes under s. 553.73 until the adoption and effective date of a new statewide uniform minimum building code, which may supersede the mausoleum standards as provided by the law enacting the new statewide uniform minimum building code.

Reviser's note.—Amended to correct an erroneous reference. Part VII of chapter 553 relates to standards for radon-resistant buildings; part IV of chapter 553 relates to the Florida Building Code.

Section 136. Paragraph (b) of subsection (8) of section 497.466, Florida Statutes, is repealed.

Reviser's note.—The cited paragraph, which provided that persons holding preneed sales agent licenses in good standing under former s. 497.439 as of September 30, 2005, were deemed to hold permanent preneed sales agent licenses or licenses by appointment by preneed licensees as of October 1, 2005, has served its purpose. Section 497.439 was redesignated as s. 497.466, effective October 1, 2005, by s. 115, ch. 2004-301, Laws of Florida.

Section 137. Subsection (3) of section 500.148, Florida Statutes, is amended to read:

500.148 Reports and dissemination of information; confidentiality.—

(3) Information deemed confidential under 21 C.F.R. part 20.61, part 20.62, or part 20.88, or 5 U.S.C. s. 552(b), and which is provided to the department during a joint food safety or food illness investigation, as a requirement for conducting a federal-state contract or partnership activity, or for regulatory review, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such information may not be disclosed except under a final determination by the appropriate federal agencies that such records are no longer entitled to protection, or pursuant to an order of the court. This section is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15, and shall stand repealed on October 2, 2008, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 138. Paragraph (b) of subsection (1) of section 501.022, Florida Statutes, is amended to read:

501.022 Home solicitation sale; permit required.—

(1)

(b) The following are excluded from the operation of this section:

1. Bona fide agents, business representatives, or salespersons making calls or soliciting orders at the usual place of business of a customer regarding products or services for use in connection with the customer's business.

2. Solicitors, salespersons, or agents making a call or business visit upon the express invitation, oral or written, of an inhabitant of the premises or her or his agent.

3. Telephone solicitors, salespersons, or agents making calls which involve transactions that are unsolicited by the consumer and consummated by telephone and without any other contact between the buyer and the seller or its representative prior to delivery of the goods or performance of the services.

4. Solicitors, salespersons, or agents conducting a sale, lease, or rental of consumer goods or services by sample, catalog, or brochure for future delivery.

5. Minors, as defined in s. 1.01(13), conducting home solicitation sales under the supervision of an adult supervisor who holds a valid home solicitation sale permit. Minors excluded from operation of this section must, however, carry personal identification which includes their full name, date of

birth, residence address, and employer and the name and permit number of their adult supervisor.

6. Those sellers or their representatives that are currently regulated as to the sale of goods and services by chapter 475 or chapter 497.

7. Solicitors, salespersons, or agents making calls or soliciting orders on behalf of a religious, charitable, scientific, educational, or veterans' institution or organization holding a sales tax exemption certificate under s. 212.08(7) ~~212.08(7)(a)~~.

Reviser's note.—Amended to correct an erroneous reference.

Section 139. Subsection (11) of section 501.976, Florida Statutes, is amended to read:

501.976 Actionable, unfair, or deceptive acts or practices.—It is an unfair or deceptive act or practice, actionable under the Florida Deceptive and Unfair Trade Practices Act, for a dealer to:

(11) Add to the cash price of a vehicle as defined in s. 520.02(2) any fee or charge other than those provided in that section and in rule 69V-50.001 ~~3D-50.001~~, Florida Administrative Code. All fees or charges permitted to be added to the cash price by rule 69V-50.001 ~~3D-50.001~~, Florida Administrative Code, must be fully disclosed to customers in all binding contracts concerning the vehicle's selling price.

In any civil litigation resulting from a violation of this section, when evaluating the reasonableness of an award of attorney's fees to a private person, the trial court shall consider the amount of actual damages in relation to the time spent.

Reviser's note.—Amended to conform to the redesignation of rule 3D-50.001 as rule 69V-50.001, Florida Administrative Code.

Section 140. Paragraph (f) of subsection (10) of section 553.73, Florida Statutes, is amended to read:

553.73 Florida Building Code.—

(10)

(f) All decisions of the local building official and local fire official and all decisions of the administrative board shall be in writing and shall be binding upon all persons but shall not limit the authority of the State Fire Marshal or the Florida Building Commission pursuant to paragraph (1)(d) and ss. 633.01 ~~663.01~~ and 633.161. Decisions of general application shall be indexed by building and fire code sections and shall be available for inspection during normal business hours.

Reviser's note.—Amended to correct a reference and conform to context. Section 663.01 provides definitions relating to international banking corporations; s. 633.01 provides for powers and duties of the State Fire Marshal.

Section 141. Paragraph (b) of subsection (15) of section 553.791, Florida Statutes, is amended to read:

553.791 Alternative plans review and inspection.—

(15)

(b) A local enforcement agency, local building official, or local government may establish, for private providers and duly authorized representatives working within that jurisdiction, a system of registration to verify compliance with the licensure requirements of paragraph (1)(i) ~~(1)(g)~~ and the insurance requirements of subsection (16).

Reviser's note.—Amended to conform to the redesignation of paragraph (1)(g) as paragraph (1)(i) by s. 6, ch. 2007-187, Laws of Florida.

Section 142. Subsection (11) of section 610.104, Florida Statutes, is amended to read:

610.104 State authorization to provide cable or video service.—

(11) The application shall be accompanied by a one-time fee of $10,000. A parent company may file a single application covering itself and all of its subsidiaries and affiliates intending to provide cable or video service in the service areas throughout the state as described in subparagraph (2)(e)5. ~~paragraph (3)(d)~~, but the entity actually providing such service in a given area shall otherwise be considered the certificateholder under this act.

Reviser's note.—Amended to correct a reference. Subsection (3) is not divided into paragraphs; subparagraph (2)(e)5. describes service areas.

Section 143. Subsection (2) of section 617.0802, Florida Statutes, is amended to read:

617.0802 Qualifications of directors.—

(2) In the event that the eligibility to serve as a member of the board of directors of a condominium association, cooperative association, homeowners' association, or mobile home owners' association is restricted to membership in such association and membership is appurtenant to ownership of a unit, parcel, or mobile home, a grantor of a trust described in s. 733.707(3), or a beneficiary as defined in former s. 737.303(4)(b) of a trust which owns a unit, parcel, or mobile home shall be deemed a member of the association and eligible to serve as a director of the condominium association, cooperative association, homeowners' association, or mobile home owners' association, provided that said beneficiary occupies the unit, parcel, or mobile home.

Reviser's note.—Amended to clarify the status of s. 737.303, which was repealed by s. 48, ch. 2006-217, Laws of Florida.

Section 144. Paragraph (e) of subsection (2) of section 624.316, Florida Statutes, is amended to read:

624.316 Examination of insurers.—

(2)

(e) The commission shall adopt rules providing that an examination under this section may be conducted by independent certified public accountants, actuaries, investment specialists, information technology specialists, and reinsurance specialists meeting criteria specified by rule. The rules shall provide:

1. That the rates charged to the insurer being examined are consistent with rates charged by other firms in a similar profession and are comparable with the rates charged for comparable examinations.

2. That the firm selected by the office to perform the examination has no conflicts of interest that might affect its ability to independently perform its responsibilities on the examination.

3. That the insurer being examined must make payment for the examination pursuant to s. 624.320(1) ~~624.320(2)~~ in accordance with the rates and terms established by the office and the firm performing the examination.

Reviser's note.—Amended to correct a reference and conform to context. Section 624.320(2) relates to deposit of the collected moneys into a specified trust fund; s. 624.320(1) relates to insurer payment for examination.

Section 145. Paragraph (e) of subsection (3) of section 627.0628, Florida Statutes, is amended to read:

627.0628 Florida Commission on Hurricane Loss Projection Methodology; public records exemption; public meetings exemption.—

(3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

(e)1. A trade secret, as defined in s. 812.081, that is used in designing and constructing a hurricane loss model and that is provided pursuant to this section, by a private company, to the commission, office, or consumer advocate appointed pursuant to s. 627.0613, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. That portion of a meeting of the commission or of a rate proceeding on an insurer's rate filing at which a trade secret made confidential and exempt by this paragraph is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

3. This paragraph is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15, and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 146. Subsection (3) of section 627.06292, Florida Statutes, is amended to read:

627.06292 Reports of hurricane loss data and associated exposure data; public records exemption.—

(3) This section is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15, and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 147. Paragraph (b) of subsection (4) and paragraph (m) of subsection (5) of section 627.311, Florida Statutes, are amended to read:

627.311 Joint underwriters and joint reinsurers; public records and public meetings exemptions.—

(4) The Florida Automobile Joint Underwriting Association:

(b) Shall keep portions of association meetings during which confidential and exempt underwriting files or confidential and exempt claims files are discussed exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution. All closed portions of association meetings shall be recorded by a court reporter. The court reporter shall record the times of commencement and termination of the meeting, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of any closed meeting shall be off the record. Subject to the provisions of this paragraph and s. 119.07(1)(d)-(f) ~~119.07(1)(e)-(g)~~, the court reporter's notes of any closed meeting shall be retained by the association for a minimum of 5 years. A copy of the transcript, less any confidential and exempt information, of any closed meeting during which confidential and exempt claims files are discussed shall become public as to individual claims files after settlement of that claim.

(5)

(m) Senior managers and officers, as defined in the plan of operation, and members of the board of governors are subject to the provisions of ss. 112.313, 112.3135, 112.3143, 112.3145, 112.316, and 112.317. Senior managers, officers, and board members are also required to file such disclosures with the Commission on Ethics and the Office of Insurance Regulation. The executive director of the plan or his or her designee shall notify each newly appointed and existing appointed member of the board of governors, senior manager, and officer of his or her duty to comply with the reporting requirements of s. 112.3145 ~~112.345~~. At least quarterly, the executive director of the plan or his or her designee shall submit to the Commission on Ethics a list of names of the senior managers, officers, and members of the board of governors who are subject to the public disclosure requirements under s. 112.3145. Notwithstanding s. 112.313, an employee, officer, owner, or director of an insurance agency, insurance company, or other insurance entity

may be a member of the board of governors unless such employee, officer, owner, or director of an insurance agency, insurance company, other insurance entity, or an affiliate provides policy issuance, policy administration, underwriting, claims handling, or payroll audit services. Notwithstanding s. 112.3143, such board member may not participate in or vote on a matter if the insurance agency, insurance company, or other insurance entity would obtain a special or unique benefit that would not apply to other similarly situated insurance entities.

Reviser's note.—Paragraph (4)(b) is amended to conform to the redesignation of s. 119.07(1)(b)-(d) as s. 119.07(1)(d)-(f) by s. 1, ch. 2007-39, Laws of Florida, and to correct the reference by s. 3, ch. 2007-39. Paragraph (5)(m) is amended to correct a reference and conform to context. Section 112.345 does not exist; s. 112.3145 relates to reporting requirements.

Section 148. Paragraph (b) of subsection (2) and paragraphs (c), (n), (v), and (w) of subsection (6) of section 627.351, Florida Statutes, 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 Miami-Dade ~~Dade~~, Broward, and Palm Beach Counties or at least 30 percent of the policies so removed cover risks located in Miami-Dade ~~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 takeout 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., 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., 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 15 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 8. ~~9.~~ However, with regard to a policyholder of the corporation or a policyholder removed from the corporation through an assumption agreement until the end of the assumption period, 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 15 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 or a policyholder removed from the corporation through an assumption agreement until the end of the assumption period, 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 submitted 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).

c. For purposes of determining comparable coverage under sub-subparagraphs a. and b., the comparison shall be based on those forms and coverages that are reasonably comparable. The corporation may rely on a determination of comparable coverage and premium made by the producing agent who submits the application to the corporation, made in the agent's capacity as the corporation's agent. A comparison may be made solely of the premium with respect to the main building or structure only on the following basis: the same coverage A or other building limits; the same percentage hurricane deductible that applies on an annual basis or that applies to each hurricane for commercial residential property; the same percentage of ordinance and law coverage, if the same limit is offered by both the corporation and the authorized insurer; the same mitigation credits, to the extent the same types of credits are offered both by the corporation and the authorized insurer; the same method for loss payment, such as replacement cost or actual cash value, if the same method is offered both by the corporation and the authorized insurer in accordance with underwriting rules; and any other form or coverage that is reasonably comparable as determined by the board. If an application is submitted to the corporation for wind-only coverage in the high-risk account, the premium for the corporation's wind-only policy plus the premium for the ex-wind policy that is offered by an authorized insurer to the applicant shall be compared to the premium for multiperil coverage offered by an authorized insurer, subject to the standards for comparison specified in this subparagraph. If the corporation or the applicant requests from the authorized insurer a breakdown of the premium of the offer by types of coverage so that a comparison may be made by the corporation or its agent and the authorized insurer refuses or is unable to provide such information, the corporation may treat the offer as not being an offer of coverage from an authorized insurer at the insurer's approved rate.

6. Must include rules for classifications of risks and rates therefor.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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. However, there shall be no limitation or deferment of an emergency assessment to be collected from policyholders under sub-subparagraph (b)3.d.

15. 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.

16. Must provide, by July 1, 2007, a premium payment plan option to its policyholders which allows at a minimum for quarterly and semiannual payment of premiums. A monthly payment plan may, but is not required to, be offered.

17. 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.

18. May provide such limits of coverage as the board determines, consistent with the requirements of this subsection.

19. May require commercial property to meet specified hurricane mitigation construction features as a condition of eligibility for coverage.

(n) If coverage in an account is deactivated pursuant to paragraph (o), 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)8. ~~(c)9.~~ 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)10. ~~(c)11.~~, 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 assessments, 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 here-

after 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.

(w)1. The following records of the corporation are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

a. Underwriting files, except that a policyholder or an applicant shall have access to his or her own underwriting files.

b. Claims files, until termination of all litigation and settlement of all claims arising out of the same incident, although portions of the claims files may remain exempt, as otherwise provided by law. Confidential and exempt claims file records may be released to other governmental agencies upon written request and demonstration of need; such records held by the receiving agency remain confidential and exempt as provided for herein.

c. Records obtained or generated by an internal auditor pursuant to a routine audit, until the audit is completed, or if the audit is conducted as part of an investigation, until the investigation is closed or ceases to be active. An investigation is considered "active" while the investigation is being conducted with a reasonable, good faith belief that it could lead to the filing of administrative, civil, or criminal proceedings.

d. Matters reasonably encompassed in privileged attorney-client communications.

e. Proprietary information licensed to the corporation under contract and the contract provides for the confidentiality of such proprietary information.

f. All information relating to the medical condition or medical status of a corporation employee which is not relevant to the employee's capacity to perform his or her duties, except as otherwise provided in this paragraph. Information which is exempt shall include, but is not limited to, information relating to workers' compensation, insurance benefits, and retirement or disability benefits.

g. Upon an employee's entrance into the employee assistance program, a program to assist any employee who has a behavioral or medical disorder, substance abuse problem, or emotional difficulty which affects the employee's job performance, all records relative to that participation shall be confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except as otherwise provided in s. 112.0455(11).

h. Information relating to negotiations for financing, reinsurance, depopulation, or contractual services, until the conclusion of the negotiations.

i. Minutes of closed meetings regarding underwriting files, and minutes of closed meetings regarding an open claims file until termination of all litigation and settlement of all claims with regard to that claim, except that information otherwise confidential or exempt by law will be redacted.

When an authorized insurer is considering underwriting a risk insured by the corporation, relevant underwriting files and confidential claims files may be released to the insurer provided the insurer agrees in writing, notarized and under oath, to maintain the confidentiality of such files. When a file is transferred to an insurer that file is no longer a public record because it is not held by an agency subject to the provisions of the public records law. Underwriting files and confidential claims files may also be released to staff of and the board of governors of the market assistance plan established pursuant to s. 627.3515, who must retain the confidentiality of such files, except such files may be released to authorized insurers that are considering assuming the risks to which the files apply, provided the insurer agrees in writing, notarized and under oath, to maintain the confidentiality of such files. Finally, the corporation or the board or staff of the market assistance plan may make the following information obtained from underwriting files and confidential claims files available to licensed general lines insurance agents: name, address, and telephone number of the residential property owner or insured; location of the risk; rating information; loss history; and

policy type. The receiving licensed general lines insurance agent must retain the confidentiality of the information received.

2. Portions of meetings of the corporation are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution wherein confidential underwriting files or confidential open claims files are discussed. All portions of corporation meetings which are closed to the public shall be recorded by a court reporter. The court reporter shall record the times of commencement and termination of the meeting, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of any closed meeting shall be off the record. Subject to the provisions hereof and s. 119.07(1)(d)-(f) ~~119.07(1)(e)-(g)~~, the court reporter's notes of any closed meeting shall be retained by the corporation for a minimum of 5 years. A copy of the transcript, less any exempt matters, of any closed meeting wherein claims are discussed shall become public as to individual claims after settlement of the claim.

Reviser's note.—Paragraph (2)(b) is amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code. Paragraphs (6)(c) and (6)(n) are amended to conform to the redesignation of subparagraph (c)8. as subparagraph (c)9. by s. 15, ch. 2006-12, Laws of Florida, and further redesignation as subparagraph (c)8. by s. 11, ch. 2007-90, Laws of Florida. Paragraph (6)(v) is amended to conform to the redesignation of subparagraph (c)10. as subparagraph (c)11. by s. 15, ch. 2006-12, and further redesignation as subparagraph (c)10. by s. 11, ch. 2007-90. Paragraph (6)(w) is amended to conform to the redesignation of s. 119.07(1)(b)-(d) as s. 119.07(1)(d)-(f) by s. 1, ch. 2007-39, Laws of Florida, and to correct the reference by s. 4, ch. 2007-39.

Section 149. Paragraph (a) of subsection (3) and paragraph (b) of subsection (6) of section 627.3511, Florida Statutes, are amended to read:

627.3511 Depopulation of Citizens Property Insurance Corporation.—

(3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

(a) The calculation of an insurer's assessment liability under s. 627.351(6)(b)3.a. or b. shall, for an insurer that in any calendar year removes 50,000 or more risks from the Citizens Property Insurance Corporation, either by issuance of a policy upon expiration or cancellation of the corporation policy or by assumption of the corporation's obligations with respect to in-force policies, exclude such removed policies for the succeeding 3 years, as follows:

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

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

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

If the removal of risks is accomplished through assumption of obligations with respect to in-force policies, the corporation shall pay to the assuming insurer all unearned premium with respect to such policies less any policy acquisition costs agreed to by the corporation and assuming insurer. The term "policy acquisition costs" is defined as costs of issuance of the policy by the corporation which includes agent commissions, servicing company fees, and premium tax. This paragraph does not apply to an insurer that, at any time within 5 years before removing the risks, had a market share in excess of 0.1 percent of the statewide aggregate gross direct written premium for any line of property insurance, or to an affiliate of such an insurer. This paragraph does not apply unless either at least 40 percent of the risks removed from the corporation are located in Miami-Dade ~~Dade~~, Broward, and Palm Beach Counties, or at least 30 percent of the risks removed from the corporation are located in such counties and an additional 50 percent of the risks removed from the corporation are located in other coastal counties.

(6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

(b) In order for a plan to qualify for approval:

1. At least 40 percent of the policies removed from the corporation under the plan must be located in Miami-Dade ~~Dade~~, Broward, and Palm Beach Counties, or at least 30 percent of the policies removed from the corporation under the plan must be located in such counties and an additional 50 percent of the policies removed from the corporation must be located in other coastal counties.

2. The insurer must renew the replacement policy at approved rates on substantially similar terms for two additional 1-year terms, unless canceled or nonrenewed by the insurer for a lawful reason other than reduction of hurricane exposure. If an insurer assumes the corporation's obligations for a policy, it must issue a replacement policy for a 1-year term upon expiration of the corporation policy and must renew the replacement policy at approved rates on substantially similar terms for two additional 1-year terms, unless canceled by the insurer for a lawful reason other than reduction of hurricane exposure. For each replacement policy canceled or nonrenewed by the insurer for any reason during the 3-year coverage period required by this subparagraph, the insurer must remove from the corporation one additional policy covering a risk similar to the risk covered by the canceled or nonrenewed policy.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 150. Paragraph (b) of subsection (2) of section 627.4133, Florida Statutes, is amended to read:

627.4133 Notice of cancellation, nonrenewal, or renewal premium.—

(2) With respect to any personal lines or commercial residential property insurance policy, including, but not limited to, any homeowner's, mobile home owner's, farmowner's, condominium association, condominium unit

owner's, apartment building, or other policy covering a residential structure or its contents:

(b) The insurer shall give the named insured written notice of nonrenewal, cancellation, or termination at least 100 days prior to the effective date of the nonrenewal, cancellation, or termination. However, the insurer shall give at least 100 days' written notice, or written notice by June 1, whichever is earlier, for any nonrenewal, cancellation, or termination that would be effective between June 1 and November 30. The notice must include the reason or reasons for the nonrenewal, cancellation, or termination, except that:

1. When cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor shall be given. As used in this subparagraph, the term "nonpayment of premium" means failure of the named insured to discharge when due any of her or his obligations in connection with the payment of premiums on a policy or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit, or failure to maintain membership in an organization if such membership is a condition precedent to insurance coverage. "Nonpayment of premium" also means the failure of a financial institution to honor an insurance applicant's check after delivery to a licensed agent for payment of a premium, even if the agent has previously delivered or transferred the premium to the insurer. If a dishonored check represents the initial premium payment, the contract and all contractual obligations shall be void ab initio unless the nonpayment is cured within the earlier of 5 days after actual notice by certified mail is received by the applicant or 15 days after notice is sent to the applicant by certified mail or registered mail, and if the contract is void, any premium received by the insurer from a third party shall be refunded to that party in full.

2. When such cancellation or termination occurs during the first 90 days during which the insurance is in force and the insurance is canceled or terminated for reasons other than nonpayment of premium, at least 20 days' written notice of cancellation or termination accompanied by the reason therefor shall be given except where there has been a material misstatement or misrepresentation or failure to comply with the underwriting requirements established by the insurer.

3. The requirement for providing written notice of nonrenewal by June 1 of any nonrenewal that would be effective between June 1 and November 30 does not apply to the following situations, but the insurer remains subject to the requirement to provide such notice at least 100 days prior to the effective date of nonrenewal:

a. A policy that is nonrenewed due to a revision in the coverage for sinkhole losses and catastrophic ground cover collapse pursuant to s. 627.706 ~~627.730~~, as amended by s. 30, chapter 2007-1, Laws of Florida.

b. A policy that is nonrenewed by Citizens Property Insurance Corporation, pursuant to s. 627.351(6), for a policy that has been assumed by an

authorized insurer offering replacement or renewal coverage to the policyholder.

After the policy has been in effect for 90 days, the policy shall not be canceled by the insurer except when there has been a material misstatement, a nonpayment of premium, a failure to comply with underwriting requirements established by the insurer within 90 days of the date of effectuation of coverage, or a substantial change in the risk covered by the policy or when the cancellation is for all insureds under such policies for a given class of insureds. This paragraph does not apply to individually rated risks having a policy term of less than 90 days.

Reviser's note.—Amended to correct a reference and conform to context. Section 627.730 is the short title of the Florida Motor Vehicle No-Fault Law; s. 627.706 relates to coverage for sinkhole losses and catastrophic ground cover collapse.

Section 151. Paragraph (a) of subsection (3) and paragraph (c) of subsection (6) of section 627.701, Florida Statutes, are amended to read:

627.701 Liability of insureds; coinsurance; deductibles.—

(3)(a) Except as otherwise provided in this subsection, prior to issuing a personal lines residential property insurance policy, the insurer must offer alternative deductible amounts applicable to hurricane losses equal to $500, 2 percent, 5 percent, and 10 percent of the policy dwelling limits, unless the specific percentage deductible is less than $500. The written notice of the offer shall specify the hurricane deductible to be applied in the event that the applicant or policyholder fails to affirmatively choose a hurricane deductible. The insurer must provide such policyholder with notice of the availability of the deductible amounts specified in this subsection ~~paragraph~~ in a form approved by the office in conjunction with each renewal of the policy. The failure to provide such notice constitutes a violation of this code but does not affect the coverage provided under the policy.

(6)

(c) A secured hurricane deductible must include the substance of the following:

1. The first $500 of any claim, regardless of the peril causing the loss, is fully deductible.

2. With respect to hurricane losses only, the next $5,000 in losses are fully insured, subject only to a copayment requirement of 10 percent.

3. With respect to hurricane losses only, the remainder of the claim is subject to a deductible equal to a specified percentage of the policy dwelling limits in excess of the deductible allowed under former paragraph (3)(a) but no higher than 10 percent of the policy dwelling limits.

4. The insurer agrees to renew the coverage on a guaranteed basis for a period of years after initial issuance of the secured deductible equal to at

least 1 year for each 2 percentage points of deductible specified in subparagraph 3. unless the policy is canceled for nonpayment of premium or the insured fails to maintain the certificate of security. Such renewal shall be at the same premium as the initial policy except for premium changes attributable to changes in the value of the property.

Reviser's note.—Paragraph (3)(a) is amended to conform to context and correct a reference. Paragraph (6)(c) is amended to clarify the status of former paragraph (3)(a), which was deleted by s. 28, ch. 2007-1, Laws of Florida.

Section 152. Paragraph (b) of subsection (2) of section 627.7261, Florida Statutes, is amended to read:

627.7261 Refusal to issue policy.—

(2)

(b) As used in this section, the term "volunteer driver" means a person who provides services, including transporting individuals or goods, without compensation in excess of expenses to a private nonprofit agency as defined in s. 273.01(3) or a charitable organization as defined in s. 736.1201 ~~737.501(2)~~.

Reviser's note.—Amended to correct a reference and improve clarity. Section 737.501 was repealed by s. 48, ch. 2006-217, Laws of Florida; s. 736.1201, created by s. 12, ch. 2006-217, now provides the definition of the term "charitable organization" previously found in s. 737.501(2).

Section 153. Paragraphs (a) and (e) of subsection (5) of section 627.736, Florida Statutes, as revived, reenacted, and amended by sections 13 and 20 of chapter 2007-324, Laws of Florida, are amended to read:

627.736 Required personal injury protection benefits; exclusions; priority; claims.—

(5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

(a)1. Any physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for a bodily injury covered by personal injury protection insurance may charge the insurer and injured party only a reasonable amount pursuant to this section for the services and supplies rendered, and the insurer providing such coverage may pay for such charges directly to such person or institution lawfully rendering such treatment, if the insured receiving such treatment or his or her guardian has countersigned the properly completed invoice, bill, or claim form approved by the office upon which such charges are to be paid for as having actually been rendered, to the best knowledge of the insured or his or her guardian. In no event, however, may such a charge be in excess of the amount the person or institution customarily charges for like services or supplies. With respect to a determination of whether a charge for a particular service, treatment, or otherwise is reasonable, consideration may be given to evidence of usual and customary charges and payments accepted by the provider involved in the dispute, and reimbursement levels in the community

and various federal and state medical fee schedules applicable to automobile and other insurance coverages, and other information relevant to the reasonableness of the reimbursement for the service, treatment, or supply.

2. The insurer may limit reimbursement to 80 percent of the following schedule of maximum charges:

a. For emergency transport and treatment by providers licensed under chapter 401, 200 percent of Medicare.

b. For emergency services and care provided by a hospital licensed under chapter 395, 75 percent of the hospital's usual and customary charges.

c. For emergency services and care as defined by s. 395.002(9) ~~395.002(10)~~ provided in a facility licensed under chapter 395 rendered by a physician or dentist, and related hospital inpatient services rendered by a physician or dentist, the usual and customary charges in the community.

d. For hospital inpatient services, other than emergency services and care, 200 percent of the Medicare Part A prospective payment applicable to the specific hospital providing the inpatient services.

e. For hospital outpatient services, other than emergency services and care, 200 percent of the Medicare Part A Ambulatory Payment Classification for the specific hospital providing the outpatient services.

f. For all other medical services, supplies, and care, 200 percent of the applicable Medicare Part B fee schedule. However, if such services, supplies, or care is not reimbursable under Medicare Part B, the insurer may limit reimbursement to 80 percent of the maximum reimbursable allowance under workers' compensation, as determined under s. 440.13 and rules adopted thereunder which are in effect at the time such services, supplies, or care is provided. Services, supplies, or care that is not reimbursable under Medicare or workers' compensation is not required to be reimbursed by the insurer.

3. For purposes of subparagraph 2., the applicable fee schedule or payment limitation under Medicare is the fee schedule or payment limitation in effect at the time the services, supplies, or care was rendered and for the area in which such services were rendered, except that it may not be less than the applicable 2007 Medicare Part B fee schedule for medical services, supplies, and care subject to Medicare Part B.

4. Subparagraph 2. does not allow the insurer to apply any limitation on the number of treatments or other utilization limits that apply under Medicare or workers' compensation. An insurer that applies the allowable payment limitations of subparagraph 2. must reimburse a provider who lawfully provided care or treatment under the scope of his or her license, regardless of whether such provider would be entitled to reimbursement under Medicare due to restrictions or limitations on the types or discipline of health care providers who may be reimbursed for particular procedures or procedure codes.

5. If an insurer limits payment as authorized by subparagraph 2., the person providing such services, supplies, or care may not bill or attempt to collect from the insured any amount in excess of such limits, except for amounts that are not covered by the insured's personal injury protection coverage due to the coinsurance amount or maximum policy limits.

(e)1. At the initial treatment or service provided, each physician, other licensed professional, clinic, or other medical institution providing medical services upon which a claim for personal injury protection benefits is based shall require an insured person, or his or her guardian, to execute a disclosure and acknowledgment form, which reflects at a minimum that:

a. The insured, or his or her guardian, must countersign the form attesting to the fact that the services set forth therein were actually rendered;

b. The insured, or his or her guardian, has both the right and affirmative duty to confirm that the services were actually rendered;

c. The insured, or his or her guardian, was not solicited by any person to seek any services from the medical provider;

d. ~~That~~ The physician, other licensed professional, clinic, or other medical institution rendering services for which payment is being claimed explained the services to the insured or his or her guardian; and

e. If the insured notifies the insurer in writing of a billing error, the insured may be entitled to a certain percentage of a reduction in the amounts paid by the insured's motor vehicle insurer.

2. The physician, other licensed professional, clinic, or other medical institution rendering services for which payment is being claimed has the affirmative duty to explain the services rendered to the insured, or his or her guardian, so that the insured, or his or her guardian, countersigns the form with informed consent.

3. Countersignature by the insured, or his or her guardian, is not required for the reading of diagnostic tests or other services that are of such a nature that they are not required to be performed in the presence of the insured.

4. The licensed medical professional rendering treatment for which payment is being claimed must sign, by his or her own hand, the form complying with this paragraph.

5. The original completed disclosure and acknowledgment form shall be furnished to the insurer pursuant to paragraph (4)(b) and may not be electronically furnished.

6. This disclosure and acknowledgment form is not required for services billed by a provider for emergency services as defined in s. 395.002, for emergency services and care as defined in s. 395.002 rendered in a hospital emergency department, or for transport and treatment rendered by an ambulance provider licensed pursuant to part III of chapter 401.

7. The Financial Services Commission shall adopt, by rule, a standard disclosure and acknowledgment form that shall be used to fulfill the requirements of this paragraph, effective 90 days after such form is adopted and becomes final. The commission shall adopt a proposed rule by October 1, 2003. Until the rule is final, the provider may use a form of its own which otherwise complies with the requirements of this paragraph.

8. As used in this paragraph, "countersigned" means a second or verifying signature, as on a previously signed document, and is not satisfied by the statement "signature on file" or any similar statement.

9. The requirements of this paragraph apply only with respect to the initial treatment or service of the insured by a provider. For subsequent treatments or service, the provider must maintain a patient log signed by the patient, in chronological order by date of service, that is consistent with the services being rendered to the patient as claimed. The requirements of this subparagraph for maintaining a patient log signed by the patient may be met by a hospital that maintains medical records as required by s. 395.3025 and applicable rules and makes such records available to the insurer upon request.

Reviser's note.—Paragraph (5)(a) is amended to correct an erroneous reference. "Emergency services and care" is defined in s. 395.002(9); s. 395.002(10) defines "[g]eneral hospital." Paragraph (5)(e) is amended to correct construction and eliminate redundancy.

Section 154. Paragraph (b) of subsection (1) of section 628.461, Florida Statutes, is amended to read:

628.461 Acquisition of controlling stock.—

(1) A person may not, individually or in conjunction with any affiliated person of such person, acquire directly or indirectly, conclude a tender offer or exchange offer for, enter into any agreement to exchange securities for, or otherwise finally acquire 5 percent or more of the outstanding voting securities of a domestic stock insurer or of a controlling company, unless:

(b) <u>The person or affiliated person</u> has filed with the office a statement as specified in subsection (3). The statement must be completed and filed within 30 days after:

1. Any definitive acquisition agreement is entered;

2. Any form of tender offer or exchange offer is proposed; or

3. The acquisition of the securities, if no definitive acquisition agreement, tender offer, or exchange offer is involved; and

In lieu of a filing as required under this subsection, a party acquiring less than 10 percent of the outstanding voting securities of an insurer may file a disclaimer of affiliation and control. The disclaimer shall fully disclose all material relationships and basis for affiliation between the person and the insurer as well as the basis for disclaiming the affiliation and control. After

a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with the person unless and until the office disallows the disclaimer. The office shall disallow a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support the disallowance. A filing as required under this subsection must be made as to any acquisition that equals or exceeds 10 percent of the outstanding voting securities.

Reviser's note.—Amended to confirm the editorial insertion of the words "[t]he person or affiliated person" to improve clarity.

Section 155. Paragraph (b) of subsection (2) of section 628.4615, Florida Statutes, is amended to read:

628.4615 Specialty insurers; acquisition of controlling stock, ownership interest, assets, or control; merger or consolidation.—

(2) A person may not, individually or in conjunction with any affiliated person of such person, directly or indirectly, conclude a tender offer or exchange offer for, enter into any agreement to exchange securities for, or otherwise finally acquire, 10 percent or more of the outstanding voting securities of a specialty insurer which is a stock corporation or of a controlling company of a specialty insurer which is a stock corporation; or conclude an acquisition of, or otherwise finally acquire, 10 percent or more of the ownership interest of a specialty insurer which is not a stock corporation or of a controlling company of a specialty insurer which is not a stock corporation, unless:

(b) <u>The person or affiliated person</u> has filed with the office an application signed under oath and prepared on forms prescribed by the commission which contains the information specified in subsection (4). The application must be completed and filed within 30 days after any form of tender offer or exchange offer is proposed, or after the acquisition of the securities if no tender offer or exchange offer is involved; and

Reviser's note.—Amended to confirm the editorial insertion of the words "[t]he person or affiliated person" to improve clarity.

Section 156. Subsection (5) of section 633.01, Florida Statutes, is amended to read:

633.01 State Fire Marshal; powers and duties; rules.—

(5) It is the intent of the Legislature that there are to be no conflicting requirements between the Florida Fire Prevention Code and the Life Safety Code authorized by this chapter and the provisions of the Florida Building Code or conflicts in their enforcement and interpretation. Potential conflicts shall be resolved through coordination and cooperation of the State Fire Marshal and the Florida Building Commission as provided by this chapter and part <u>IV</u> ~~VII~~ of chapter 553.

Reviser's note.—Amended to correct an erroneous reference. Part VII of chapter 553 relates to standards for radon-resistant buildings; part IV of chapter 553 relates to the Florida Building Code.

Section 157. Subsection (4) of section 633.025, Florida Statutes, is amended to read:

633.025 Minimum firesafety standards.—

(4) Such codes shall be minimum codes and a municipality, county, or special district with firesafety responsibilities may adopt more stringent firesafety standards, subject to the requirements of this subsection. Such county, municipality, or special district may establish alternative requirements to those requirements which are required under the minimum firesafety standards on a case-by-case basis, in order to meet special situations arising from historic, geographic, or unusual conditions, if the alternative requirements result in a level of protection to life, safety, or property equal to or greater than the applicable minimum firesafety standards. For the purpose of this subsection, the term "historic" means that the building or structure is listed on the National Register of Historic Places of the United States Department of the Interior.

(a) The local governing body shall determine, following a public hearing which has been advertised in a newspaper of general circulation at least 10 days before the hearing, if there is a need to strengthen the requirements of the minimum firesafety code adopted by such governing body. The determination must be based upon a review of local conditions by the local governing body, which review demonstrates that local conditions justify more stringent requirements than those specified in the minimum firesafety code for the protection of life and property or justify requirements that meet special situations arising from historic, geographic, or unusual conditions.

(b) Such additional requirements shall not be discriminatory as to materials, products, or construction techniques of demonstrated capabilities.

(c) Paragraphs (a) and (b) apply solely to the local enforcing agency's adoption of requirements more stringent than those specified in the Florida Fire Prevention Code and the Life Safety Code that have the effect of amending building construction standards. Upon request, the enforcing agency shall provide a person making application for a building permit, or any state agency or board with construction-related regulation responsibilities, a listing of all such requirements and codes.

(d) A local government which adopts amendments to the minimum firesafety code must provide a procedure by which the validity of such amendments may be challenged by any substantially affected party to test the amendment's compliance with the provisions of this section.

1. Unless the local government agrees to stay enforcement of the amendment, or other good cause is shown, the challenging party shall be entitled to a hearing on the challenge within 45 days.

2. For purposes of such challenge, the burden of proof shall be on the challenging party, but the amendment shall not be presumed to be valid or invalid.

This subsection gives local government the authority to establish firesafety codes that exceed the minimum firesafety codes and standards adopted by the State Fire Marshal. The Legislature intends that local government give proper public notice and hold public hearings before adopting more stringent firesafety codes and standards. A substantially affected person may appeal, to the department, the local government's resolution of the challenge, and the department shall determine if the amendment complies with this section. Actions of the department are subject to judicial review pursuant to s. 120.68. The department shall consider reports of the Florida Building Commission, pursuant to part IV ~~VII~~ of chapter 553, when evaluating building code enforcement.

Reviser's note.—Amended to correct an erroneous reference. Part VII of chapter 553 relates to standards for radon-resistant buildings; part IV of chapter 553 relates to the Florida Building Code.

Section 158. Paragraph (b) of subsection (3) of section 660.417, Florida Statutes, is amended to read:

660.417 Investment of fiduciary funds in investment instruments; permissible activity under certain circumstances; limitations.—

(3) The fact that such bank or trust company or an affiliate of the bank or trust company owns or controls investment instruments shall not preclude the bank or trust company acting as a fiduciary from investing or reinvesting in such investment instruments, provided such investment instruments:

(b) When sold to accounts for which the bank or trust company is acting as a trustee of a trust as defined in s. 731.201(37) ~~731.201(35)~~:

1. Are available for sale to accounts of other customers; and

2. If sold to other customers, are not sold to the trust accounts upon terms that are less favorable to the buyer than the terms upon which they are normally sold to the other customers.

Reviser's note.—Amended to conform to the redesignation of s. 731.201(35) as s. 731.201(37) by s. 3, ch. 2007-74, Laws of Florida.

Section 159. Paragraph (f) of subsection (5) of section 736.0802, Florida Statutes, is amended to read:

736.0802 Duty of loyalty.—

(5)

(f)1. The trustee of a trust described in s. 731.201(37) ~~731.201(35)~~ may request authority to invest in investment instruments described in this subsection other than a qualified investment instrument, by providing to all qualified beneficiaries a written request containing the following:

a. The name, telephone number, street address, and mailing address of the trustee and of any individuals who may be contacted for further information.

b. A statement that the investment or investments cannot be made without the consent of a majority of each class of the qualified beneficiaries.

c. A statement that, if a majority of each class of qualified beneficiaries consent, the trustee will have the right to make investments in investment instruments, as defined in s. 660.25(6), which are owned or controlled by the trustee or its affiliate, or from which the trustee or its affiliate receives compensation for providing services in a capacity other than as trustee, that such investment instruments may include investment instruments sold primarily to trust accounts, and that the trustee or its affiliate may receive fees in addition to the trustee's compensation for administering the trust.

d. A statement that the consent may be withdrawn prospectively at any time by written notice given by a majority of any class of the qualified beneficiaries.

A statement by the trustee is not delivered if the statement is accompanied by another written communication other than a written communication by the trustee that refers only to the statement.

2. For purposes of paragraph (e) and this paragraph:

a. "Majority of the qualified beneficiaries" means:

(I) If at the time the determination is made there are one or more beneficiaries as described in s. 736.0103(14)(c), at least a majority in interest of the beneficiaries described in s. 736.0103(14)(a), at least a majority in interest of the beneficiaries described in s. 736.0103(14)(b), and at least a majority in interest of the beneficiaries described in s. 736.0103(14)(c), if the interests of the beneficiaries are reasonably ascertainable; otherwise, a majority in number of each such class; or

(II) If there is no beneficiary as described in s. 736.0103(14)(c), at least a majority in interest of the beneficiaries described in s. 736.0103(14)(a) and at least a majority in interest of the beneficiaries described in s. 736.0103(14)(b), if the interests of the beneficiaries are reasonably ascertainable; otherwise, a majority in number of each such class.

b. "Qualified investment instrument" means a mutual fund, common trust fund, or money market fund described in and governed by s. 736.0816(3).

c. An irrevocable trust is created upon execution of the trust instrument. If a trust that was revocable when created thereafter becomes irrevocable, the irrevocable trust is created when the right of revocation terminates.

Reviser's note.—Amended to conform to the redesignation of s. 731.201(35) as s. 731.201(37) by s. 3, ch. 2007-74, Laws of Florida.

Section 160. Subsection (3) of section 741.3165, Florida Statutes, is amended to read:

741.3165 Certain information exempt from disclosure.—

(3) This section is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15, and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 161. Subsection (4) of section 744.1076, Florida Statutes, is amended to read:

744.1076 Court orders appointing court monitors and emergency court monitors; reports of court monitors; findings of no probable cause; public records exemptions.—

(4) This section is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand repealed on October 2, 2011, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 162. Section 812.1725, Florida Statutes, is amended to read:

812.1725 Preemption.—A political subdivision of this state may not adopt, for convenience businesses, security standards which differ from those contained in ss. 812.173 and 812.174, and all such differing standards, whether existing or proposed, are hereby preempted and superseded by general law~~, except any local ordinance in effect prior to September 1988 and determined by the Department of Legal Affairs to provide more stringent security standards than those contained in ss. 812.173 and 812.174 shall not be preempted and superseded by general law for a period of 2 years from December 31, 1992~~.

Reviser's note.—Amended to delete an obsolete exemption relating to preemption.

Section 163. Paragraph (c) of subsection (2) of section 817.625, Florida Statutes, is amended to read:

817.625 Use of scanning device or reencoder to defraud; penalties.—

(2)

(c) Any person who violates subparagraph (a)1. or subparagraph (a)2. shall also be subject to the provisions of ss. <u>932.701-932.706</u> ~~932.701-932.707~~.

Reviser's note.—Amended to conform to the repeal of s. 932.707 by s. 21, ch. 2006-176, Laws of Florida. The last section in the range is now s. 932.706.

Section 164. Paragraph (a) of subsection (4) of section 832.062, Florida Statutes, is amended to read:

832.062 Prosecution for worthless checks, drafts, debit card orders, or electronic funds transfers made to pay any tax or associated amount administered by the Department of Revenue.—

(4)(a) In any prosecution or action under this section, the making, drawing, uttering, or delivery of a check, draft, or order; the making, sending, instructing, ordering, or initiating of any electronic funds transfer; or causing the making, sending, instructing, ordering, or initiating of any electronic transfer payment, any of which are refused by the drawee because of lack of funds or credit, is prima facie evidence of intent to defraud or knowledge of insufficient funds in, or credit with, such bank, banking institution, trust company, or other depository, unless the maker, drawer, sender, instructor, orderer, or initiator, or someone for him or her, has paid the holder thereof the amount due thereon, together with a service charge, which may not exceed the service fees authorized under s. 832.08(5), or an amount of up to 5 percent of the face amount of the check or the amount of the electronic funds transfer, whichever is greater, within 15 days after written notice has been sent to the address printed on the check, or given or on file at the time of issuance, that such check, draft, order, or electronic funds transfer has not been paid to the holder thereof, and has paid the bank fees incurred by the holder. In the event of legal action for recovery, the maker, drawer, sender, instructor, orderer, or initiator may be additionally liable for court costs and reasonable attorney's fees. Notice mailed by certified or registered mail that is evidenced by return receipt, or by first-class mail that is evidenced by an affidavit of service of mail, to the address printed on the check or given or on file at the time of issuance shall be deemed sufficient and equivalent to notice having been received by the maker, drawer, sender, instructor, orderer, or initiator, whether such notice is returned undelivered or not. The form of the notice shall be substantially as follows:

"You are hereby notified that a check or electronic funds transfer, numbered ...., in the face amount of $...., issued or initiated by you on ...(date)..., drawn upon ...(name of bank)..., and payable to ...., has been dishonored. Pursuant to Florida law, you have 15 days following the date of this notice to tender payment of the full amount of such check or electronic funds transfer plus a service charge of $25, if the face value does not exceed $50; $30, if the face value exceeds $50 but does not exceed $300; $40, if the face value exceeds $300; or an amount of up to 5 percent of the face amount of the check, whichever is greater, the total amount due being $.... and .... cents. Unless this amount is paid in full within the time specified above, the holder of such check or electronic funds transfer may turn over the dishonored check or electronic funds transfer and all other available information relating to this incident to the state attorney for criminal prosecution. You may be additionally liable in a civil action for triple the amount of the check or electronic funds transfer, but in no case less than $50, together with the amount of the check or electronic funds transfer, a service charge, court costs, reasonable attorney's fees, and incurred bank fees, as provided in s. 68.065, Florida Statutes."

Subsequent persons receiving a check, draft, order, or electronic funds transfer from the original payee or a successor endorsee have the same rights that the original payee has against the maker of the instrument if the subsequent persons give notice in a substantially similar form to that provided above. Subsequent persons providing such notice are immune from civil liability for the giving of such notice and for proceeding under the forms of such notice so long as the maker of the instrument has the same defenses against these subsequent persons as against the original payee. However, the remedies available under this section may be exercised only by one party in interest.

Reviser's note.—Amended to confirm the editorial insertion of the word "or" to improve clarity.

Section 165. 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

(c) LEVEL 3

Florida Statute	Felony Degree	Description
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.

Florida Statute	Felony Degree	Description
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.
400.9935(4) ~~400.903(3)~~	3rd	Operating a clinic without a license or filing false license application or other required information.
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.

Florida Statute	Felony Degree	Description
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.
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.

Florida Statute	Felony Degree	Description
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.
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 correct an apparent error. Section 400.9935(4) addresses both unlicensed activity and falsified applications.

Section 166. Subsection (1) of section 932.701, Florida Statutes, is amended to read:

932.701 Short title; definitions.—

(1) Sections 932.701-932.706 ~~932.701-932.707~~ shall be known and may be cited as the "Florida Contraband Forfeiture Act."

Reviser's note.—Amended to conform to the repeal of s. 932.707 by s. 21, ch. 2006-176, Laws of Florida. The last section in the range is now s. 932.706.

Section 167. Subsection (1) of section 940.05, Florida Statutes, is amended to read:

940.05 Restoration of civil rights.—Any person who has been convicted of a felony may be entitled to the restoration of all the rights of citizenship enjoyed by him or her prior to conviction if the person has:

(1) Received a full pardon from the Board of Executive Clemency ~~board of pardons~~;

Reviser's note.—Amended to improve clarity and conform to the proper name of the board.

Section 168. Subsection (3) of section 943.0314, Florida Statutes, is amended to read:

943.0314 Public records and public meetings exemptions; Domestic Security Oversight Council.—

(3) This section is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 169. Subsection (2) of section 943.32, Florida Statutes, is amended to read:

943.32 Statewide criminal analysis laboratory system.—There is established a statewide criminal analysis laboratory system to be composed of:

(2) The existing locally funded laboratories in Broward, ~~Dade,~~ Indian River, Miami-Dade, Monroe, Palm Beach, and Pinellas Counties, specifically designated in s. 943.35 to be eligible for state matching funds; and

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 170. Paragraph (b) of subsection (1) of section 943.35, Florida Statutes, is amended to read:

943.35 Funding for existing laboratories.—

(1) The following existing criminal analysis laboratories are eligible for receipt of state funding:

(b) The Miami-Dade ~~Metro-Dade~~ Police Department Crime Laboratory;

Reviser's note.—Amended to conform to the current name of the crime laboratory and the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 171. Section 947.06, Florida Statutes, as amended by section 16 of chapter 90-211, Laws of Florida, is amended to read:

947.06 Meeting; when commission may act.—The commission shall meet at regularly scheduled intervals and from time to time as may otherwise be determined by the chair. The making of recommendations to the Governor and Cabinet in matters relating to modifications of acts and decisions of the chair as provided in s. 947.04(1) shall be by a majority vote of the commission. No prisoner shall be placed on parole except as provided in ss. 947.172 and 947.174 by a panel of no fewer than two commissioners appointed by the chair. All matters relating to the granting, denying, or revoking of parole shall be decided in a meeting at which the public shall have the right to be present. Victims of the crime committed by the inmate shall be permitted to make an oral statement or submit a written statement regarding their views as to the granting, denying, or revoking of parole. Persons not members or employees of the commission or victims of the crime committed by the inmate may be permitted to participate in deliberations concerning the granting and revoking of paroles only upon the prior written approval of the chair of the commission. To facilitate the ability of victims and other persons to attend commission meetings, the commission shall meet in various counties including, but not limited to, Broward, ~~Dade,~~ Duval, Escambia, Hillsborough, Leon, Miami-Dade, Orange, and Palm Beach, with the location chosen being as close as possible to the location where the parole-eligible inmate committed the offense for which the parole-eligible inmate was sentenced. The commission shall adopt rules governing the oral participation of victims and the submission of written statements by victims.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 172. Section 947.06, Florida Statutes, as amended by section 22 of chapter 90-337, Laws of Florida, is amended to read:

947.06 Meeting; when commission may act.—The commission shall meet at regularly scheduled intervals and from time to time as may otherwise be determined by the chair. The making of recommendations to the Governor and Cabinet in matters relating to modifications of acts and decisions of the chair as provided in s. 947.04(1) shall be by a majority vote of the commission. No prisoner shall be placed on parole except as provided in ss. 947.172

and 947.174 by a panel of no fewer than two commissioners appointed by the chair. All matters relating to the granting, denying, or revoking of parole shall be decided in a meeting at which the public shall have the right to be present. Victims of the crime committed by the inmate shall be permitted to make an oral statement or submit a written statement regarding their views as to the granting, denying, or revoking of parole. Persons not members or employees of the commission or victims of the crime committed by the inmate may be permitted to participate in deliberations concerning the granting and revoking of paroles only upon the prior written approval of the chair of the commission. To facilitate the ability of victims and other persons to attend commission meetings, the commission shall meet in counties including, but not limited to, Broward, ~~Dade,~~ Duval, Escambia, Hillsborough, Leon, Miami-Dade, Orange, and Palm Beach, with the location chosen being as close as possible to the location where the parolee or releasee committed the offense for which the parolee or releasee was sentenced. The commission shall adopt rules governing the oral participation of victims and the submission of written statements by victims.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 173. Subsection (7) of section 1001.11, Florida Statutes, is amended to read:

1001.11 Commissioner of Education; other duties.—

(7) The commissioner shall make prominently available on the department's website the following: links to the Internet-based clearinghouse for professional development regarding physical education ~~which is established under s. 1012.98(4)(d)~~; the school wellness and physical education policies and other resources required under s. 1003.453(1) and (2); and other Internet sites that provide professional development for elementary teachers of physical education as defined in s. 1003.01(16). These links must provide elementary teachers with information concerning current physical education and nutrition philosophy and best practices that result in student participation in physical activities that promote lifelong physical and mental well-being.

Reviser's note.—Amended to delete an erroneous reference. Section 1012.98(4)(d) does not exist.

Section 174. Subsections (5) and (6) of section 1001.215, Florida Statutes, are amended to read:

1001.215 Just Read, Florida! Office.—There is created in the Department of Education the Just Read, Florida! Office. The office shall be fully accountable to the Commissioner of Education and shall:

(5) Provide technical assistance to school districts in the development and implementation of district plans for use of the research-based reading instruction allocation provided in s. 1011.62(9) ~~1011.62(8)~~ and annually review and approve such plans.

(6) Review, evaluate, and provide technical assistance to school districts' implementation of the K-12 comprehensive reading plan required in s. 1011.62(9) ~~1011.62(8)~~.

Reviser's note.—Amended to correct an erroneous reference and conform to context. The comprehensive reading plan is required by s. 1011.62(9).

Section 175. Section 1001.395, Florida Statutes, is amended to read:

1001.395 District school board members; compensation.—Each member of the district school board shall receive a base salary, the amounts indicated in this section, based on the population of the county the district school board member serves. In addition, compensation shall be made for population increments over the minimum for each population group, which shall be determined by multiplying the population in excess of the minimum for the group times the group rate. The product of such calculation shall be added to the base salary to determine the adjusted base salary. The adjusted base salaries of district school board members shall be increased annually as provided for in s. 145.19.

Pop. Group	County Pop. Range		Base Salary	Group Rate
	Minimum	Maximum		
I	-0-	9,999	$5,000	$0.08330
II	10,000	49,999 ~~49,000~~	5,833	0.020830
III	50,000	99,999	6,666	0.016680
IV	100,000	199,999	7,500	0.008330
V	200,000	399,999	8,333	0.004165
VI	400,000	999,999	9,166	0.001390
VII	1,000,000		10,000	0.000000

District school board member salaries negotiated on or after November of 2006 shall remain in effect up to the date of the 2007-2008 calculation provided pursuant to s. 145.19.

Reviser's note.—Amended to correct an apparent error.

Section 176. Paragraph (a) of subsection (2) of section 1002.35, Florida Statutes, is amended to read:

1002.35 New World School of the Arts.—

(2)(a) For purposes of governance, the New World School of the Arts is assigned to Miami Dade ~~Miami-Dade~~ College, the Miami-Dade County Public Schools ~~Dade County School District~~, and one or more universities designated by the State Board of Education. The State Board of Education, in conjunction with the Board of Governors, shall assign to the New World School of the Arts a university partner or partners. In this selection, the State Board of Education and the Board of Governors shall consider the accreditation status of the core programs. Florida International University, in its capacity as the provider of university services to Miami-Dade ~~Dade~~ County, shall be a partner to serve the New World School of the Arts, upon meeting the accreditation criteria. The respective boards shall appoint members to an executive board for administration of the school. The executive

board may include community members and shall reflect proportionately the participating institutions. Miami Dade ~~Miami-Dade~~ College shall serve as fiscal agent for the school.

Reviser's note.—Amended to reflect the current names of Miami Dade College and the Miami-Dade County Public Schools and to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 177. Paragraph (c) of subsection (10) of section 1002.39, Florida Statutes, is amended to read:

1002.39 The John M. McKay Scholarships for Students with Disabilities Program.—There is established a program that is separate and distinct from the Opportunity Scholarship Program and is named the John M. McKay Scholarships for Students with Disabilities Program.

(10) JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.—

(c)1. The school district shall report all students who are attending a private school under this program. The students with disabilities attending private schools on John M. McKay Scholarships shall be reported separately from other students reported for purposes of the Florida Education Finance Program.

2. For program participants who are eligible under subparagraph (2)(a)2., the school district that is used as the basis for the calculation of the scholarship amount as provided in subparagraph (a)3. shall:

a. Report to the department all such students who are attending a private school under this program.

b. Be held harmless for such students from the weighted enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.b. ~~1011.62(1)(d)3.a.~~ during the first school year in which the students are reported.

Reviser's note.—Amended to correct an erroneous reference and conform to context. The weighted enrollment ceiling for group 2 programs is in s. 1011.62(1)(d)3.b.

Section 178. Subsection (4) of section 1002.72, Florida Statutes, is amended to read:

1002.72 Records of children in the Voluntary Prekindergarten Education Program.—

(4) This section is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand repealed October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 179. Paragraph (b) of subsection (1) of section 1003.4156, Florida Statutes, is amended to read:

1003.4156 General requirements for middle grades promotion.—

(1) Beginning with students entering grade 6 in the 2006-2007 school year, promotion from a school composed of middle grades 6, 7, and 8 requires that:

(b) For each year in which a student scores at Level l on FCAT Reading, the student must be enrolled in and complete an intensive reading course the following year. Placement of Level 2 readers in either an intensive reading course or a content area course in which reading strategies are delivered shall be determined by diagnosis of reading needs. The department shall provide guidance on appropriate strategies for diagnosing and meeting the varying instructional needs of students reading below grade level. Reading courses shall be designed and offered pursuant to the comprehensive reading plan required by s. 1011.62(9) ~~1011.62(8)~~.

Reviser's note.—Amended to correct an erroneous reference and conform to context. The comprehensive reading plan is required by s. 1011.62(9).

Section 180. Paragraph (b) of subsection (2) of section 1003.428, Florida Statutes, is amended to read:

1003.428 General requirements for high school graduation; revised.—

(2) The 24 credits may be earned through applied, integrated, and combined courses approved by the Department of Education and shall be distributed as follows:

(b) Eight credits in majors, minors, or electives:

1. Four credits in a major area of interest, such as sequential courses in a career and technical program, fine and performing arts, or academic content area, selected by the student as part of the education plan required by s. 1003.4156. Students may revise major areas of interest each year as part of annual course registration processes and should update their education plan to reflect such revisions. Annually by October 1, the district school board shall approve major areas of interest and submit the list of majors to the Commissioner of Education for approval. Each major area of interest shall be deemed approved unless specifically rejected by the commissioner within 60 days. Upon approval, each district's major areas of interest shall be available for use by all school districts and shall be posted on the department's website.

2. Four credits in elective courses selected by the student as part of the education plan required by s. 1003.4156. These credits may be combined to allow for a second major area of interest pursuant to subparagraph 1., a minor area of interest, elective courses, or intensive reading or mathematics intervention courses as described in this subparagraph.

a. Minor areas of interest are composed of three credits selected by the student as part of the education plan required by s. 1003.4156 and approved by the district school board.

b. Elective courses are selected by the student in order to pursue a complete education program as described in s. 1001.41(3) and to meet eligibility requirements for scholarships.

c. For each year in which a student scores at Level l on FCAT Reading, the student must be enrolled in and complete an intensive reading course the following year. Placement of Level 2 readers in either an intensive reading course or a content area course in which reading strategies are delivered shall be determined by diagnosis of reading needs. The department shall provide guidance on appropriate strategies for diagnosing and meeting the varying instructional needs of students reading below grade level. Reading courses shall be designed and offered pursuant to the comprehensive reading plan required by s. 1011.62(9) ~~1011.62(8)~~.

d. For each year in which a student scores at Level 1 or Level 2 on FCAT Mathematics, the student must receive remediation the following year. These courses may be taught through applied, integrated, or combined courses and are subject to approval by the department for inclusion in the Course Code Directory.

Reviser's note.—Amended to correct an erroneous reference and conform to context. The comprehensive reading plan is required by s. 1011.62(9).

Section 181. Paragraph (c) of subsection (8) of section 1004.43, Florida Statutes, is amended to read:

1004.43 H. Lee Moffitt Cancer Center and Research Institute.—There is established the H. Lee Moffitt Cancer Center and Research Institute at the University of South Florida.

(8)

(c) Subparagraphs 10. and 12. of paragraph (b) are subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 182. Subsection (4) of section 1004.4472, Florida Statutes, is amended to read:

1004.4472 Florida Institute for Human and Machine Cognition, Inc.; public records exemption; public meetings exemption.—

(4) This section is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 183. Paragraph (e) of subsection (1) of section 1004.55, Florida Statutes, is amended to read:

1004.55 Regional autism centers.—

(1) Seven regional autism centers are established to provide nonresidential resource and training services for persons of all ages and of all levels of intellectual functioning who have autism, as defined in s. 393.063; who have a pervasive developmental disorder that is not otherwise specified; who have an autistic-like disability; who have a dual sensory impairment; or who have a sensory impairment with other handicapping conditions. Each center shall be operationally and fiscally independent and shall provide services within its geographical region of the state. Service delivery shall be consistent for all centers. Each center shall coordinate services within and between state and local agencies and school districts but may not duplicate services provided by those agencies or school districts. The respective locations and service areas of the centers are:

(e) The Mailman Center for Child Development and the Department of Psychology at the University of Miami, which serves Broward, Miami-Dade ~~Dade~~, and Monroe Counties.

Reviser's note.—Amended to conform to the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 184. Subsection (2) of section 1004.76, Florida Statutes, is amended to read:

1004.76 Florida Martin Luther King, Jr., Institute for Nonviolence.—

(2) There is hereby created the Florida Martin Luther King, Jr., Institute for Nonviolence to be established at Miami Dade ~~Miami-Dade Community~~ College. The institute shall have an advisory board consisting of 13 members as follows: the Attorney General, the Commissioner of Education, and 11 members to be appointed by the Governor, such members to represent the population of the state based on its ethnic, gender, and socioeconomic diversity. Of the members appointed by the Governor, one shall be a member of the Senate appointed by the Governor on the recommendation of the President of the Senate; one shall be a member of the Senate appointed by the Governor on the recommendation of the minority leader; one shall be a member of the House of Representatives appointed by the Governor on the recommendation of the Speaker of the House of Representatives; one shall be a member of the House of Representatives appointed by the Governor on the recommendation of the minority leader; and seven shall be members appointed by the Governor, no more than three of whom shall be members of the same political party. The following groups shall be represented by the seven members: the Florida Sheriffs Association; the Florida Association of Counties; the Florida League of Cities; state universities human services agencies; community relations or human relations councils; and youth. A chairperson shall be elected by the members and shall serve for a term of 3 years. Members of the board shall serve the following terms of office which shall be staggered:

(a) A member of the Legislature appointed to the board shall serve for a single term not to exceed 5 years and shall serve as a member only while he or she is a member of the Legislature.

(b) Of the seven members who are not members of the Legislature, three shall serve for terms of 4 years, two shall serve for terms of 3 years, and one shall serve for a term of 1 year. Thereafter, each member, except for a member appointed to fill an unexpired term, shall serve for a 5-year term. No member shall serve on the board for more than 10 years.

In the event of a vacancy occurring in the office of a member of the board by death, resignation, or otherwise, the Governor shall appoint a successor to serve for the balance of the unexpired term.

Reviser's note.—Amended to conform to the redesignation of Miami-Dade Community College as Miami Dade College due to new baccalaureate degrees offered.

Section 185. Paragraph (b) of subsection (6) of section 1005.38, Florida Statutes, is amended to read:

1005.38 Actions against a licensee and other penalties.—

(6) The commission may conduct disciplinary proceedings through an investigation of any suspected violation of this chapter or any rule of the commission, including a finding of probable cause and making reports to any law enforcement agency or regulatory agency.

(b)1. All investigatory records held by the commission in conjunction with an investigation conducted pursuant to this subsection, including minutes and findings of an exempt probable cause panel meeting convened in conjunction with such investigation, are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for a period not to exceed 10 days after the panel makes a determination regarding probable cause.

2. Those portions of meetings of the probable cause panel at which records made exempt pursuant to subparagraph 1. are discussed are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

3. This paragraph is subject to the Open Government Sunset Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Reviser's note.—Amended to conform to the renaming of the "Open Government Sunset Review Act of 1995" as the "Open Government Sunset Review Act" by s. 37, ch. 2005-251, Laws of Florida.

Section 186. Paragraph (b) of subsection (4) of section 1008.25, Florida Statutes, is amended to read:

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

(4) ASSESSMENT AND REMEDIATION.—

(b) The school in which the student is enrolled must develop, in consultation with the student's parent, and must implement a progress monitoring plan. A progress monitoring plan is intended to provide the school district and the school flexibility in meeting the academic needs of the student and to reduce paperwork. A student who is not meeting the school district or state requirements for proficiency in reading and math shall be covered by one of the following plans to target instruction and identify ways to improve his or her academic achievement:

1. A federally required student plan such as an individual education plan;

2. A schoolwide system of progress monitoring for all students; or

3. An individualized progress monitoring plan.

The plan chosen must be designed to assist the student or the school in meeting state and district expectations for proficiency. If the student has been identified as having a deficiency in reading, the K-12 comprehensive reading plan required by s. 1011.62(9) ~~1011.62(8)~~ shall include instructional and support services to be provided to meet the desired levels of performance. District school boards may require low-performing students to attend remediation programs held before or after regular school hours or during the summer if transportation is provided.

Reviser's note.—Amended to correct an erroneous reference and conform to context. The comprehensive reading plan is required by s. 1011.62(9).

Section 187. 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. 1001.42(16)(e) ~~1006.42(16)(e)~~ and according to rules adopted by the State Board of Education.

Reviser's note.—Amended to correct an erroneous reference and conform to context. The cite should be to s. 1001.42(16)(e); s. 1006.42 does not contain a subsection (16).

Section 188. Subsection (3) of section 1009.01, Florida Statutes, is amended to read:

1009.01 Definitions.—The term:

(3) "Tuition differential" means the supplemental fee charged to a student for instruction provided by a public university in this state pursuant to s. 1009.24(16) ~~1009.24(15)~~.

Reviser's note.—Amended to correct an erroneous reference and conform to context. Tuition differential is covered in s. 1009.24(16).

Section 189. Paragraph (f) of subsection (13) of section 1009.24, Florida Statutes, as amended by section 5 of chapter 2007-329, Laws of Florida, is amended to read:

1009.24 State university student fees.—

(13) Each university board of trustees is authorized to establish the following fees:

(f) A fee for miscellaneous health-related charges for services provided at cost by the university health center which are not covered by the health fee set under subsection (11) ~~(10)~~.

Reviser's note.—Amended to conform to the addition of a new subsection (3) by s. 133, ch. 2007-217, Laws of Florida, and the redesignation of subsequent subsections by that provision.

Section 190. Paragraph (b) of subsection (2) of section 1009.98, Florida Statutes, is amended to read:

1009.98 Stanley G. Tate Florida Prepaid College Program.—

(2) PREPAID COLLEGE PLANS.—At a minimum, the board shall make advance payment contracts available for two independent plans to be known as the community college plan and the university plan. The board may also make advance payment contracts available for a dormitory residence plan. The board may restrict the number of participants in the community college plan, university plan, and dormitory residence plan, respectively. However, any person denied participation solely on the basis of such restriction shall be granted priority for participation during the succeeding year.

(b)1. Through the university plan, the advance payment contract shall provide prepaid registration fees for a specified number of undergraduate semester credit hours not to exceed the average number of hours required for the conference of a baccalaureate degree. Qualified beneficiaries shall bear the cost of any laboratory fees associated with enrollment in specific courses. Each qualified beneficiary shall be classified as a resident for tuition purposes pursuant to s. 1009.21, regardless of his or her actual legal residence.

2. Effective July 1, 1998, the board may provide advance payment contracts for additional fees delineated in s. 1009.24(9)-(12) ~~1009.24(8)-(11)~~, for a specified number of undergraduate semester credit hours not to exceed the average number of hours required for the conference of a baccalaureate degree, in conjunction with advance payment contracts for registration fees.

Such contracts shall provide prepaid coverage for the sum of such fees, to a maximum of 45 percent of the cost of registration fees. University plan contracts purchased prior to July 1, 1998, shall be limited to the payment of registration fees as defined in s. 1009.97.

3. Effective July 1, 2007, the board may provide advance payment contracts for the tuition differential authorized in s. 1009.24(16) ~~1009.24(15)~~ for a specified number of undergraduate semester credit hours, which may not exceed the average number of hours required for the conference of a baccalaureate degree, in conjunction with advance payment contracts for registration fees.

Reviser's note.—Amended to conform to the redesignation of subunits within s. 1009.24 by s. 133, ch. 2007-217, Laws of Florida. Paragraph (2)(b) was also amended to correct an erroneous reference and conform to context. Tuition differential is covered in s. 1009.24(16).

Section 191. Subsection (5) of section 1011.48, Florida Statutes, is amended to read:

1011.48 Establishment of educational research centers for child development.—

(5) Each educational research center for child development shall be funded by a portion of the Capital Improvement Trust Fund fee established by the Board of Governors pursuant to s. 1009.24(8) ~~1009.24(7)~~. Each university that establishes a center shall receive a portion of such fees collected from the students enrolled at that university, usable only at that university, equal to 22.5 cents per student per credit hour taken per term, based on the summer term and fall and spring semesters. This allocation shall be used by the university only for the establishment and operation of a center as provided by this section and rules adopted hereunder. Said allocation may be made only after all bond obligations required to be paid from such fees have been met.

Reviser's note.—Amended to conform to the redesignation of subunits within s. 1009.24 by s. 133, ch. 2007-217, Laws of Florida.

Section 192. Paragraph (c) of subsection (2) of section 1012.61, Florida Statutes, is amended to read:

1012.61 Sick leave.—

(2) PROVISIONS GOVERNING SICK LEAVE.—The following provisions shall govern sick leave:

(c) Compensation.—Any employee having unused sick leave credit shall receive full-time compensation for the time justifiably absent on sick leave, but no compensation may be allowed beyond that which may be provided in subparagraph (2)(a)4 ~~subsection (4)~~.

Reviser's note.—Amended to correct an erroneous reference and conform to context. The cited subsection does not exist. Subparagraph (2)(a)4. relates to compensation for terminal pay for accumulated sick leave.

Section 193. Section 1012.875, Florida Statutes, is amended to read:

1012.875 State Community College System Optional Retirement Program.—Each community college may implement an optional retirement program, if such program is established therefor pursuant to s. 1001.64(20), under which annuity or other contracts providing retirement and death benefits may be purchased by, and on behalf of, eligible employees who participate in the program, in accordance with s. 403(b) of the Internal Revenue Code. Except as otherwise provided herein, this retirement program, which shall be known as the State Community College System Optional Retirement Program, may be implemented and administered only by an individual community college or by a consortium of community colleges.

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

(a) "Activation" means the date upon which an optional retirement program is first made available by the program administrator to eligible employees.

(b) "College" means community colleges as defined in s. 1000.21.

(c) "Department" means the Department of Management Services.

(d) "Program administrator" means the individual college or consortium of colleges responsible for implementing and administering an optional retirement program.

(e) "Program participant" means an eligible employee who has elected to participate in an available optional retirement program as authorized by this section.

(2) Participation in the optional retirement program provided by this section is limited to employees who satisfy the criteria set forth in s. 121.051(2)(c).

(3)(a) With respect to any employee who is eligible to participate in the optional retirement program by reason of qualifying employment commencing before the program's activation:

1. The employee may elect to participate in the optional retirement program in lieu of participation in the Florida Retirement System. To become a program participant, the employee must file with the personnel officer of the college, within 90 days after the program's activation, a written election on a form provided by the Florida Retirement System and a completed application for an individual contract or certificate.

2. An employee's participation in the optional retirement program commences on the first day of the next full calendar month following the filing of the election and completed application with the program administrator and receipt of such election by the department. An employee's membership in the Florida Retirement System terminates on this same date.

3. Any such employee who fails to make an election to participate in the optional retirement program within 60 days after its activation has elected to retain membership in the Florida Retirement System.

(b) With respect to any employee who becomes eligible to participate in an optional retirement program by reason of qualifying employment commencing on or after the program's activation:

1. The employee may elect to participate in the optional retirement program in lieu of participation in the Florida Retirement System. To become a program participant, the employee must file with the personnel officer of the college, within 90 days after commencing qualifying employment as provided in s. 121.051(2)(c)4., a written election on a form provided by the Florida Retirement System and a completed application for an individual contract or certificate.

2. An employee's participation in the optional retirement program commences retroactive to the first day of qualifying employment following the filing of the election and completed application with the program administrator and receipt of such election by the department. An employee's membership in the Florida Retirement System terminates on this same date.

3. Any such employee who fails to make an election to participate in the optional retirement program within 90 days after commencing qualifying employment has elected to retain membership in the Florida Retirement System.

(c) Any employee who, on or after an optional retirement program's activation, becomes eligible to participate in the program by reason of a change in status due to the subsequent designation of the employee's position as one of those referenced in subsection (2), or due to the employee's appointment, promotion, transfer, or reclassification to a position referenced in subsection (2), must be notified by the college of the employee's eligibility to participate in the optional retirement program in lieu of participation in the Florida Retirement System. These eligible employees are subject to the provisions of paragraph (b) and may elect to participate in the optional retirement program in the same manner as those employees described in paragraph (b), except that the 90-day election period commences upon the date notice of eligibility is received by the employee and participation in the program begins the first day of the first full calendar month that the change in status becomes effective.

(d) Program participants must be fully and immediately vested in the optional retirement program upon issuance of an optional retirement program contract.

(e) The election by an eligible employee to participate in the optional retirement program is irrevocable for so long as the employee continues to meet the eligibility requirements set forth in this section and in s. 121.051(2)(c), except as provided in paragraph (i) or as provided in s. 121.051(2)(c)3.

(f) If a program participant becomes ineligible to continue participating in the optional retirement program pursuant to the criteria referenced in subsection (2), the employee becomes a member of the Florida Retirement System if eligible. The college must notify the department of an employee's change in eligibility status within 30 days after the event that makes the

employee ineligible to continue participation in the optional retirement program.

(g) An eligible employee who is a member of the Florida Retirement System at the time of election to participate in the optional retirement program retains all retirement service credit earned under the Florida Retirement System at the rate earned. Additional service credit in the Florida Retirement System may not be earned while the employee participates in the optional retirement program, nor is the employee eligible for disability retirement under the Florida Retirement System. An eligible employee may transfer from the Florida Retirement System to his or her accounts under the State Community College System Optional Retirement Program a sum representing the present value of his or her service credit accrued under the defined benefit program of the Florida Retirement System for the period between his or her first eligible transfer date from the defined benefit plan to the optional retirement program and the actual date of such transfer as provided in s. 121.051(2)(c)7. Upon such transfer, all such service credit previously earned under the defined benefit program of the Florida Retirement System during this period shall be nullified for purposes of entitlement to a future benefit under the defined benefit program of the Florida Retirement System.

(h) A program participant may not simultaneously participate in any other state-administered retirement system, plan, or class.

(i) Except as provided in s. 121.052(6)(d), a program participant who is or who becomes dually employed in two or more positions covered by the Florida Retirement System, one of which is eligible for an optional retirement program pursuant to this section and one of which is not, is subject to the dual employment provisions of chapter 121.

(4)(a) Each college must contribute on behalf of each program participant an amount equal to 10.43 percent of the participant's gross monthly compensation. The college shall deduct an amount approved by the district board of trustees of the college to provide for the administration of the optional retirement program. Payment of this contribution must be made either directly by the college or through the program administrator to the designated company contracting for payment of benefits to the program participant.

(b) Each college must contribute on behalf of each program participant an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required if the program participant were a member of the Regular Class of the Florida Retirement System. Payment of this contribution must be made directly by the college to the department for deposit in the Florida Retirement System Trust Fund.

(c) Each program participant who has been issued an optional retirement program contract may contribute by way of salary reduction or deduction a percentage of the program participant's gross compensation, but this percentage may not exceed the corresponding percentage contributed by the community college to the optional retirement program. Payment of this contribution may be made either directly by the college or through the

program administrator to the designated company contracting for payment of benefits to the program participant.

(d) Contributions to an optional retirement program by a college or a program participant are in addition to, and have no effect upon, contributions required now or in future by the federal Social Security Act.

(e) The college may accept for deposit into participant account or accounts contributions in the form of rollovers or direct trustee-to-trustee transfers by or on behalf of participants who are reasonably determined by the college to be eligible for rollover or transfer to the optional retirement program pursuant to the Internal Revenue Code, if such contributions are made in accordance with the applicable requirements of the college. Accounting for such contributions shall be in accordance with any applicable requirements of the Internal Revenue Code and the college.

(5)(a) The benefits to be provided to program participants must be provided through contracts, including individual contracts or individual certificates issued for group annuity or other contracts, which may be fixed, variable, or both, in accordance with s. 403(b) of the Internal Revenue Code. Each individual contract or certificate must state the type of contract on its face page, and must include at least a statement of ownership, the contract benefits, distribution options, limitations, expense charges, and surrender charges, if any.

(b) Benefits are payable under the optional retirement program to program participants or their beneficiaries, and the benefits must be paid only by the designated company in accordance with the terms of the contracts applicable to the program participant. Benefits shall accrue in individual accounts that are participant-directed, portable, and funded by employer contributions and the earnings thereon. Benefits funded by employer contributions are payable in accordance with the following terms and conditions:

1. Benefits shall be payable only to a participant, to his or her beneficiaries, or to his or her estate, as designated by the participant.

2. Benefits shall be paid by the provider company or companies in accordance with the law, the provisions of the contract, and any applicable employer rule or policy.

3. In the event of a participant's death, moneys accumulated by, or on behalf of, the participant, less withholding taxes remitted to the Internal Revenue Service, if any, shall be distributed to the participant's designated beneficiary or beneficiaries, or to the participant's estate, as if the participant retired on the date of death as provided in paragraph (d). No other death benefits shall be available for survivors of participants under the optional retirement program except for such benefits, or coverage for such benefits, as are separately afforded by the employer at the employer's discretion.

(c) Upon receipt by the provider company of a properly executed application for distribution of benefits, the total accumulated benefits shall be payable to the participant as:

1. A lump-sum distribution to the participant;

2. A lump-sum direct rollover distribution whereby all accrued benefits, plus interest and investment earnings, are paid from the participant's account directly to an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the participant;

3. Periodic distributions;

4. A partial lump-sum payment whereby a portion of the accrued benefit is paid to the participant and the remaining amount is transferred to an eligible retirement plan, as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the participant; or

5. Such other distribution options as are provided for in the participant's optional retirement program contract.

(d) Survivor benefits shall be payable as:

1. A lump-sum distribution payable to the beneficiaries or to the deceased participant's estate;

2. An eligible rollover distribution on behalf of the surviving spouse or beneficiary of a deceased participant whereby all accrued benefits, plus interest and investment earnings, are paid from the deceased participant's account directly to an eligible retirement plan, as described in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the surviving spouse;

3. Such other distribution options as are provided for in the participant's optional retirement program contract; or

4. A partial lump-sum payment whereby a portion of the accrued benefits are paid to the deceased participant's surviving spouse or other designated beneficiaries, less withholding taxes remitted to the Internal Revenue Service, if any, and the remaining amount is transferred directly to an eligible retirement plan, as described in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the surviving spouse. The proportions must be specified by the participant or the surviving beneficiary.

Nothing in this paragraph abrogates other applicable provisions of state or federal law providing payment of death benefits.

(e) The benefits payable to any person under the optional retirement program, and any contribution accumulated under the program, are not subject to assignment, execution, attachment, or to any legal process whatsoever.

(6)(a) The optional retirement program authorized by this section must be implemented and administered by the program administrator under s. 403(b) of the Internal Revenue Code. The program administrator has the express authority to contract with a third party to fulfill any of the program administrator's duties.

(b) The program administrator shall solicit competitive bids or issue a request for proposal and select no more than four companies from which optional retirement program contracts may be purchased under the optional retirement program. In making these selections, the program administrator shall consider the following factors:

1. The financial soundness of the company.

2. The extent of the company's experience in providing annuity or other contracts to fund retirement programs.

3. The nature and extent of the rights and benefits provided to program participants in relation to the premiums paid.

4. The suitability of the rights and benefits provided to the needs of eligible employees and the interests of the college in the recruitment and retention of employees.

In lieu of soliciting competitive bids or issuing a request for proposals, the program administrator may authorize the purchase of annuity contracts under the optional retirement program from those companies currently selected by the department to offer such contracts through the State University System Optional Retirement Program, as set forth in s. 121.35.

(c) Optional retirement program annuity contracts must be approved in form and content by the program administrator in order to qualify. The program administrator may use the same annuity contracts currently used within the State University System Optional Retirement Program, as set forth in s. 121.35.

(d) The provision of each annuity contract applicable to a program participant must be contained in a written program description that includes a report of pertinent financial and actuarial information on the solvency and actuarial soundness of the program and the benefits applicable to the program participant. The company must furnish the description annually to the program administrator, and to each program participant upon commencement of participation in the program and annually thereafter.

(e) The program administrator must ensure that each program participant is provided annually with an accounting of the total contributions and the annual contributions made by and on the behalf of the program participant.

Reviser's note.—Amended to conform to the complete title of the State Community College System Optional Retirement Program as referenced in the section.

Section 194. Subsection (1) of section 1013.73, Florida Statutes, is amended to read:

1013.73 Effort index grants for school district facilities.—

(1) The Legislature hereby allocates for effort index grants the sum of $300 million from the funds appropriated from the Educational Enhance-

ment Trust Fund by s. 46, chapter 97-384, Laws of Florida, contingent upon the sale of school capital outlay bonds. From these funds, the Commissioner of Education shall allocate to the four school districts deemed eligible for an effort index grant by the SMART Schools Clearinghouse the sums of $7,442,890 to the Clay County School District, $62,755,920 to the Miami-Dade County Public Schools ~~Dade County School District~~, $1,628,590 to the Hendry County School District, and $414,950 to the Madison County School District. The remaining funds shall be allocated among the remaining district school boards that qualify for an effort index grant by meeting the local capital outlay effort criteria in paragraph (a) or paragraph (b).

(a) Between July 1, 1995, and June 30, 1999, the school district received direct proceeds from the one-half-cent sales surtax for public school capital outlay authorized by s. 212.055(6) or from the local government infrastructure sales surtax authorized by s. 212.055(2).

(b) The school district met two of the following criteria:

1. Levied the full 2 mills of nonvoted discretionary capital outlay authorized by s. 1011.71(2) during 1995-1996, 1996-1997, 1997-1998, and 1998-1999.

2. Levied a cumulative voted millage for capital outlay and debt service equal to 2.5 mills for fiscal years 1995 through 1999.

3. Received proceeds of school impact fees greater than $500 per dwelling unit which were in effect on July 1, 1998.

4. Received direct proceeds from either the one-half-cent sales surtax for public school capital outlay authorized by s. 212.055(6) or from the local government infrastructure sales surtax authorized by s. 212.055(2).

Reviser's note.—Amended to conform to the current name of the school district and the redesignation of Dade County as Miami-Dade County by s. 1-4.2 of the Miami-Dade County Code.

Section 195. 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 7, 2008.

Filed in Office Secretary of State April 7, 2008.