

Committee Substitute for Senate Bill No. 1282

An act relating to the Florida Statutes; amending ss. 220.19, 420.5087, and 624.5107, F.S., and repealing ss. 110.1245(4)(b), 185.085(6), 215.96(4), 216.292(3)(c)-(e) and (5)(b), 253.03(17), 253.034(6)(f)2., 320.08058(1)(d), 322.025(2), 403.890(5), 408.036(3)(m), 475.278(2)(b) and (c), 487.041(1), 509.302(8), 561.121(4), 561.501, 570.957, 921.0001, 921.001, 921.0011, 921.0012, 921.0013, 921.0014, 921.0015, 921.0016, 921.005, 985.803, 985.804, 985.805, 985.806, 985.807, and 1010.78, F.S., to delete provisions which have become inoperative by noncurrent repeal or expiration and, pursuant to s. 11.242(5)(b) and (i), may be omitted from the 2009 Florida Statutes only through a reviser's bill duly enacted by the Legislature; repealing ss. 626.97411 and 1006.20(10), F.S., to confirm the October 2, 2008, repeal of exemptions in accordance with the Open Government Sunset Review Act; and amending s. 775.0845, F.S., to conform to the repeal of ss. 921.0012 and 921.0013, F.S.; providing an effective date.

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

Section 1. Paragraph (b) of subsection (4) of section 110.1245, Florida Statutes, is repealed.

Reviser's note.—The cited paragraph, which relates to use of funds for cash awards to state employees for the 2007-2008 fiscal year only, was repealed by its own terms, effective July 1, 2008.

Section 2. Subsection (6) of section 185.085, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to distribution of premium excise tax amounts pursuant to specified formulae and conditions, expired pursuant to its own terms, effective January 1, 2008.

Section 3. Subsection (4) of section 215.96, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to duties of the Financial Management Information Board, through its coordinating council, to facilitate the integration of specified financial management information systems, including establishment of an Enterprise Resource Planning Integration Task Force, was amended by two 2004 laws. The amendment by s. 26, ch. 2004-269, Laws of Florida, provided that the subsection expired pursuant to its own terms, effective July 1, 2005. The amendment by s. 10, ch. 2004-390, Laws of Florida, provided that the subsection expired pursuant to its own terms, effective July 1, 2008. Both dates have now occurred.

Section 4. Paragraphs (c), (d), and (e) of subsection (3) and paragraph (b) of subsection (5) of section 216.292, Florida Statutes, are repealed.

Reviser's note.—The cited paragraphs, which relate to transfer of appropriations for operations relating to criminal conflict and civil regional coun-

sel budget entities and between such entities and the child dependency and civil conflict case appropriation category and the criminal conflicts case costs appropriation category within the Justice Administration Commission, and recommendations by the Governor for initiation of fixed capital outlay projects funded by grants awarded by FEMA for certain disaster declarations, were repealed by their own terms, effective July 1, 2008.

Section 5. Section 220.19, Florida Statutes, is amended to read:

220.19 Child care tax credits.—

~~(1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.—~~

~~(a)1.— A credit of 50 percent of the startup costs of child care facilities operated by a corporation for its employees is allowed against any tax due for a taxable year under this chapter. A credit against such tax is also allowed for the operation of a child care facility by a corporation for its employees, which credit is in the amount of \$50 per month for each child enrolled in the facility.~~

~~2.— A credit is allowed against any tax due for a taxable year under this chapter for any taxpayer that makes payments directly to a child care facility as defined by s. 402.302 which is licensed in accordance with s. 402.305, or to any facility providing daily care to children who are mildly ill, which payments are made in the name of and for the benefit of an employee of the taxpayer in this state whose child attends the child care facility during the employee's working hours. The credit shall be an amount equal to 50 percent of the amount of such child care payments.~~

~~(b) A corporation may not receive more than \$50,000 in annual tax credits for all approved child care costs that the corporation incurs in any one year.~~

~~(c) The total amount of tax credits which may be granted for all programs approved under this section and s. 624.5107 is \$2 million annually.~~

~~(d) An application for tax credit under this section must be approved by the executive director of the department.~~

~~(1)(e) If the credit granted under this section is not fully used in any one year because of insufficient tax liability on the part of the corporation, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for that year exceeds the credit for which the corporation is eligible in that year under this section after applying the other credits and unused carryovers in the order provided by s. 220.02(8).~~

~~(2)(f) If a corporation receives a credit for child care facility startup costs, and the facility fails to operate for at least 5 years, a pro rata share of the credit must be repaid, in accordance with the formula: $A = C \times (1 - (N/60))$, where:~~

~~(a)1. "A" is the amount in dollars of the required repayment.~~

~~(b)2.~~ “C” is the total credits taken by the corporation for child care facility startup costs.

~~(c)3.~~ “N” is the number of months the facility was in operation.

This repayment requirement is inapplicable if the corporation goes out of business or can demonstrate to the department that its employees no longer want to have a child care facility.

~~(g) A taxpayer that files a consolidated return in this state as a member of an affiliated group under s. 220.131(1) may be allowed the credit on a consolidated return basis.~~

~~(h) A taxpayer that is eligible to receive credit under s. 624.5107 is ineligible to receive credit under this section.~~

~~(2) ELIGIBILITY REQUIREMENTS.—~~

~~(a) A child care facility with respect to which a corporation claims a child care tax credit must be a child care facility as defined by s. 402.302 and must be licensed in accordance with s. 402.305, or must be a facility providing daily care to children who are mildly ill.~~

~~(b) The services of a child care facility for which a corporation claims a child care tax credit under subparagraph (1)(a)1. must be available to all employees of the corporation, or must be allocated on a first-come, first-served basis, and must be used by employees of the taxpayer.~~

~~(c) Two or more corporations may join together to start and to operate a child care facility according to the provisions of this section. If two or more corporations choose to jointly operate a child care facility, or cause a not-for-profit corporation to operate the child care facility, the corporations must file a joint application or the not-for-profit corporation may file the application with the department, pursuant to subsection (3), setting forth their proposal. The participating corporations may proportion the annual child care costs credits in any manner they choose as appropriate, but no jointly operated corporate child care facility established under this section may receive more than \$50,000 in annual tax credits for all approved child care costs that the participating corporations incur in any one year.~~

~~(d) Child care payments for which a corporation claims a credit under subparagraph (1)(a)2. shall not exceed the amount charged by the child care facility to other children of like age and abilities of persons not employed by the corporation.~~

~~(3) APPLICATION REQUIREMENTS.— Any corporation that wishes to participate in this program must submit to the department an application for tax credit which sets forth the proposal for establishing a child care facility for the use of its employees or for payment of the cost of child care for its employees. This application must state the anticipated startup costs and the number of children to be enrolled, in the case of credit claimed under subparagraph (1)(a)1., or the number of children for whom child care costs will be paid, in the case of credit claimed under subparagraph (1)(a)2.~~

~~(4) ADMINISTRATION.—~~

~~(a) The Department of Revenue may adopt all rules pursuant to the Administrative Procedure Act to administer this section, including rules for the approval or disapproval of proposals submitted by corporations and rules to provide for cooperative arrangements between for-profit and not-for-profit corporations.~~

~~(b) The executive director's decision to approve or disapprove a proposal must be in writing, and, if the proposal is approved, the decision must state the maximum credit allowable to the corporation.~~

~~(c) All approvals for the granting of the tax credit require prior verification by the Department of Children and Family Services or local licensing agency that the corporation meets the licensure requirements as defined in s. 402.302 and is currently licensed in accordance with s. 402.305, or is a facility providing daily care to children who are mildly ill.~~

~~(d) Verification of the child care provider as an approved facility must be in writing and must be attached to the credit application form submitted to the Department of Revenue.~~

~~(5) EXPIRATION.—This section expires on June 30, 2008, except that paragraph (1)(e), which relates to carryover credits, and paragraph (1)(f), which relates to repaying tax credits in specified circumstances, do not expire on that date.~~

~~(6) MEANING OF CORPORATION.—As used in this section, the term "corporation" includes all general partnerships, limited partnerships, unincorporated businesses, and all other business entities which are owned or controlled by the parent corporation.~~

Reviser's note.—Amended to conform to the expiration of all of the section except paragraphs (1)(e) and (f) by the terms of subsection (5), effective June 30, 2008.

Section 6. Subsection (17) of section 253.03, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to lease of the South Florida Evaluation and Treatment Center complex in Miami-Dade County for the 2007-2008 fiscal year only, expired pursuant to its own terms, effective July 1, 2008.

Section 7. Subparagraph 2. of paragraph (f) of subsection (6) of section 253.034, Florida Statutes, is repealed.

Reviser's note.—The cited subparagraph, which relates to offer of reconveyance of specified surplus land conveyed to the state by a fair association before 1955, expired pursuant to its own terms, effective July 1, 2008.

Section 8. Paragraph (d) of subsection (1) of section 320.08058, Florida Statutes, is repealed.

Reviser's note.—The cited paragraph, which relates to use of the annual use fee deposited into the Save the Manatee Trust Fund from sale of manatee license plates for buying back unissued manatee plates during the 2007-2008 fiscal year only, expired pursuant to its own terms, effective July 1, 2008.

Section 9. Subsection (2) of section 322.025, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to requirements for distribution of safety materials, including the Official Florida Driver Handbook, expired pursuant to its own terms, effective July 1, 2008.

Section 10. Subsection (5) of section 403.890, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which authorizes transfer of interest earnings accumulated in the Water Protection and Sustainability Program Trust Fund to the Ecosystem Management and Restoration Trust Fund for grants and aids to local governments for certain water projects, expired pursuant to its own terms, effective July 1, 2008.

Section 11. Paragraph (m) of subsection (3) of section 408.036, Florida Statutes, is repealed.

Reviser's note.—The cited paragraph, which relates to requirements for an adult open-heart-surgery program to be located in a new hospital where the new hospital is being established in the location of an existing hospital with such a program, was repealed by its own terms, effective January 1, 2008.

Section 12. Subsection (2) of section 420.5087, Florida Statutes, is amended to read:

420.5087 State Apartment Incentive Loan Program.—There is hereby created the State Apartment Incentive Loan Program for the purpose of providing first, second, or other subordinated mortgage loans or loan guarantees to sponsors, including for-profit, nonprofit, and public entities, to provide housing affordable to very-low-income persons.

(2) The corporation shall have the power to underwrite and make state apartment incentive loans or loan guarantees to sponsors, provided:

(a) The sponsor uses tax-exempt financing for the first mortgage and at least 20 percent of the units in the project are set aside for persons or families who have incomes which meet the income eligibility requirements of s. 8 of the United States Housing Act of 1937, as amended;

(b) The sponsor uses taxable financing for the first mortgage and at least 20 percent of the units in the project are set aside for persons or families who have incomes below 50 percent of the state or local median income, whichever is higher, which shall be adjusted by the corporation for family size; or

(c) The sponsor uses the federal low-income housing tax credit, and the project meets the tenant income eligibility requirements of s. 42 of the Internal Revenue Code of 1986, as amended, ~~;~~ ~~or~~

(d) ~~The project is located in a county that includes, or has included within the previous 5 years, an area of critical state concern designated or ratified by the Legislature for which the Legislature has declared its intent to provide affordable housing, and 100 percent of the units in the project are set aside for persons or families who have incomes below 120 percent of the state or local median income, whichever is higher, which shall be adjusted by the corporation for family size. This paragraph expires July 1, 2008.~~

This subsection does not prohibit a tenant from qualifying under the income eligibility criteria of paragraph (a), paragraph (b), or paragraph (c), ~~or paragraph (d)~~ due to the tenant's participation in a job training program approved by the corporation. Compliance with the provisions of this subsection must be contractually provided for the term of the loan or 12 years, whichever is longer; however, this subsection does not apply to loans made to housing communities for the elderly to provide for lifesafety, building preservation, health, sanitation, or security-related repairs or improvements. Such loans shall be subject to tenant income criteria established by corporation rule.

Reviser's note.—Amended to conform to the expiration of paragraph (d), which relates to projects in areas of critical state concern under the State Apartment Incentive Loan Program, pursuant to its own terms, effective July 1, 2008.

Section 13. Paragraphs (b) and (c) of subsection (2) of section 475.278, Florida Statutes, are repealed.

Reviser's note.—The cited paragraphs, which relate to disclosure requirements and contents of disclosure for transaction brokers, expired pursuant to their own terms, effective July 1, 2008.

Section 14. Subsection (1) of section 487.041, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which requires registration of each brand of pesticide distributed, sold, offered for sale, or transported within this state, expired pursuant to its own terms, effective at midnight, December 31, 2008.

Section 15. Subsection (8) of section 509.302, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which authorizes use of revenue from administrative fines to support the Hospitality Education Program, expired pursuant to its own terms, effective July 1, 2008.

Section 16. Subsection (4) of section 561.121, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to payment of funds collected pursuant to s. 561.501 into the State Treasury to be credited to the General Revenue Funds, was repealed by s. 2, ch. 2006-162, Laws of Florida, effective July 1, 2008. Since the subsection was not repealed by a "current

session” of the Legislature, it may be omitted from the 2009 Florida Statutes only through a reviser’s bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 17. Section 561.501, Florida Statutes, is repealed.

Reviser’s note.—The cited section, which relates to a surcharge on sale of alcoholic beverages for consumption on the premises, was repealed by s. 7, ch. 2006-162, Laws of Florida, effective July 1, 2008. Since the section was not repealed by a “current session” of the Legislature, it may be omitted from the 2009 Florida Statutes only through a reviser’s bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 18. Section 570.957, Florida Statutes, is repealed.

Reviser’s note.—The cited section, which establishes the Farm-to-Fuel Grants Program, expired pursuant to its own terms, effective July 1, 2008.

Section 19. Section 624.5107, Florida Statutes, is amended to read:

~~624.5107 Child care tax credits; definitions; authorization; limitations; eligibility and application requirements; administration; expiration.—~~

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

~~(a) “Child care facility startup costs” means expenditures for substantial renovation, equipment, including playground equipment and kitchen appliances and cooking equipment, real property, including land and improvements, and for reduction of debt, made in connection with the establishment of a child care facility as defined by s. 402.302, or any facility providing daily care to children who are mildly ill, which is located in this state on the insurer’s premises and used by the employees of the insurer.~~

~~(b) “Operation of a child care facility” means operation of a child care facility as defined by s. 402.302, or any facility providing daily care to children who are mildly ill, which is located in this state within 5 miles of at least one place of business of the insurer and which is used by the employees of the insurer.~~

~~(c) “Department” means the Department of Revenue.~~

~~(d) “Executive director” means the executive director of the Department of Revenue.~~

~~(2) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.—~~

~~(a)1. A credit of 50 percent of the startup costs of child care facilities operated by an insurer for its employees is allowed against any tax due for a taxable year under s. 624.509 or s. 624.510. A credit against such tax is also allowed for the operation of a child care facility by an insurer for its employees, which credit is in the amount of \$50 per month for each child enrolled in the facility.~~

~~2. A credit is allowed against any tax due for a taxable year under s. 624.509 or s. 624.510 for any insurer that makes payments directly to a child~~

care facility as defined by s. 402.302 which is licensed in accordance with s. 402.305, or to any facility providing daily care to children who are mildly ill, which payments are made in the name of and for the benefit of an employee of the insurer in this state whose child attends the child care facility during the employee's working hours. The credit shall be an amount equal to 50 percent of the amount of such child care payments.

~~(b) An insurer may not receive more than \$50,000 in annual tax credits for all approved child care costs that the insurer incurs in any one year.~~

~~(c) The total amount of tax credits which may be granted for all programs approved under this section and s. 220.19 is \$2 million annually.~~

~~(d) An application for tax credit under this section must be approved by the executive director.~~

~~(1)(e)~~ If the credit granted under this section is not fully used in any one year because of insufficient tax liability on the part of the insurer, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by s. 624.509 or s. 624.510 for that year exceeds the credit for which the insurer is eligible in that year under this section.

~~(2)(f)~~ If an insurer receives a credit for child care facility startup costs, and the facility fails to operate for at least 5 years, a pro rata share of the credit must be repaid, in accordance with the formula: $A = C \times (1 - (N/60))$, where:

~~(a)1.~~ "A" is the amount in dollars of the required repayment.

~~(b)2.~~ "C" is the total credits taken by the insurer for child care facility startup costs.

~~(c)3.~~ "N" is the number of months the facility was in operation.

This repayment requirement is inapplicable if the insurer goes out of business or can demonstrate to the department that its employees no longer want to have a child care facility.

~~(3) ELIGIBILITY REQUIREMENTS.—~~

~~(a) A child care facility with respect to which an insurer claims a child care tax credit must be a child care facility as defined by s. 402.302 and must be licensed in accordance with s. 402.305, or must be a facility providing daily care to children who are mildly ill.~~

~~(b) The services of a child care facility for which an insurer claims a child care tax credit under subparagraph (2)(a)1. must be available to all employees of the insurer or must be allocated on a first-come, first-served basis, and must be used by employees of the insurer.~~

~~(c) Child care payments for which an insurer claims a credit under subparagraph (2)(a)2. shall not exceed the amount charged by the child care~~

facility to other children of like age and abilities of persons not employed by the insurer.

~~(4) APPLICATION REQUIREMENTS.—Any insurer that wishes to participate in this program must submit to the department an application for tax credit which sets forth the proposal for establishing a child care facility for the use of its employees or for payment of the cost of child care for its employees. This application must state the anticipated startup costs and the number of children to be enrolled, in the case of credit claimed under subparagraph (2)(a)1., or the number of children for whom child care costs will be paid, in the case of credit claimed under subparagraph (2)(a)2.~~

~~(5) ADMINISTRATION.—~~

~~(a) The Department of Revenue may adopt all rules pursuant to the Administrative Procedure Act to administer this section, including rules for the approval or disapproval of proposals submitted by insurers and rules to provide for cooperative arrangements between for-profit and not-for-profit entities.~~

~~(b) The executive director's decision to approve or disapprove a proposal must be in writing, and, if the proposal is approved, the decision must state the maximum credit allowable to the insurer.~~

~~(c) All approvals for the granting of the tax credit require prior verification by the Department of Children and Family Services or local licensing agency that the insurer meets the licensure requirements as defined in s. 402.302 and is currently licensed in accordance with s. 402.305, or is a facility providing daily care to children who are mildly ill.~~

~~(d) Verification of the child care provider as an approved facility must be in writing and must be attached to the credit application form submitted to the Department of Revenue.~~

~~(6) EXPIRATION.—This section expires on June 30, 2008, except that paragraph (2)(e), which relates to carryover credits, and paragraph (2)(f), which relates to repaying tax credits in specified circumstances, do not expire on that date.~~

Reviser's note.—Amended to conform to the expiration of all of the section except paragraphs (2)(e) and (f) by the terms of subsection (6), effective June 30, 2008.

Section 20. Section 626.97411, Florida Statutes, is repealed.

Reviser's note.—The cited section, which relates to a public records exemption for credit scoring methodologies and related information filed with the Office of Insurance Regulation, is repealed to confirm the October 2, 2008, repeal of an exemption in accordance with s. 119.15, the Open Government Sunset Review Act.

Section 21. Sections 921.0001, 921.001, 921.0011, 921.0012, 921.0013, 921.0014, 921.0015, 921.0016, and 921.005, Florida Statutes, are repealed.

Reviser's note.—The cited sections, relating to sentencing guidelines, were repealed by s. 1, ch. 97-194, Laws of Florida, effective October 1, 1998. Since the sections were not repealed by a “current session” of the Legislature, they may be omitted from the 2009 Florida Statutes only through a reviser's bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i). Section 43, ch. 97-194, directed the Division of Statutory Revision to “leave the repealed statutory provisions referenced herein in the Florida Statutes for 10 years from October 1, 1998.” Ten years have now passed.

Section 22. Sections 985.803, 985.804, 985.805, 985.806, and 985.807, Florida Statutes, are repealed.

Reviser's note.—The cited sections, which relate to specific duties associated with the Interstate Compact on Juveniles, were repealed “effective July 1, 2005, or upon enactment of the compact into law by the 35th compacting state, whichever date occurs later,” pursuant to s. 5, ch. 2005-80, Laws of Florida. The replacement compact pursuant to ch. 2005-80, was enacted by the 35th state, Illinois, on August 26, 2008.

Section 23. Subsection (10) of section 1006.20, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which relates to a random drug testing program for certain athletic programs in public schools, is repealed to confirm the October 2, 2008, repeal of an exemption in accordance with s. 119.15, the Open Government Sunset Review Act.

Section 24. Section 1010.78, Florida Statutes, is repealed.

Reviser's note.—The cited section, which relates to the Projects, Contracts, and Grants Trust Fund, was repealed by s. 5, ch. 2007-19, Laws of Florida, effective July 1, 2008. Since the section was not repealed by a “current session” of the Legislature, it may be omitted from the 2009 Florida Statutes only through a reviser's bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 25. Subsection (2) of section 775.0845, Florida Statutes, is amended to read:

775.0845 Wearing mask while committing offense; reclassification.—The felony or misdemeanor degree of any criminal offense, other than a violation of ss. 876.12-876.15, shall be reclassified to the next higher degree as provided in this section if, while committing the offense, the offender was wearing a hood, mask, or other device that concealed his or her identity.

(2)(a) In the case of a felony of the third degree, the offense is reclassified to a felony of the second degree.

(b) In the case of a felony of the second degree, the offense is reclassified to a felony of the first degree.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that is reclassified

under this subsection is ranked one level above the ranking under former s. 921.0012, former s. 921.0013, s. 921.0022, or s. 921.0023 of the offense committed.

Reviser's note.—Amended to conform to the repeal of ss. 921.0012 and 921.0013 by s. 1, ch. 97-194, Laws of Florida.

Section 26. This act shall take effect on the 60th day after adjournment sine die of the session of the Legislature in which enacted.

Approved by the Governor March 17, 2009.

Filed in Office Secretary of State March 17, 2009.