CHAPTER 2009-21

Senate Bill No. 1284

An act relating to the Florida Statutes; amending ss. 39.01, 39.806, 45.035, 61.122, 112.661, 121.051, 121.153, 161.085, 163.3177, 193.074, 193.1554, 193.1555, 201.15, 211.31, 215.50, 215.555, 215.5595, 218.409, 253.03, 259.032, 259.105, 259.1053, 282.201, 288.1089, 288.8175, 316.2128, 316.650, 319.001, 320.08058, 323.001, 336.41, 336.44, 364.051, 373.118, 373.4145, 374.977, 378.021, 378.403, 379.2495, 379.353, 379.407, 380.061, 380.510, 381.0063, 403.087, 403.0871, 403.511, 403.5115, 403.531, 403.7264, 403.813, 403.862, 403.890, 403.9416, 409.2598, 468.432, 489.145, 499.003, 499.012, 499.0121, 499.015, 500.12, 553.885, 553.975, 560.111, 560.124, 560.141, 560.142, 560.143, 560.209, 560.404, 560.406, 570.07, 597.004, 597.010, 624.4213, 626.8541, 626.8796, 626.8797, 627.0621, 627.0628, 627.736, 718.111, 718.112, 718.113, 718.501, 718.503, 828.25, 937.021, 1000.36, 1001.395, 1002.36, 1006.035, 1006.59, 1008.22, 1008.34, 1008.341, 1008.345, 1009.73, 1012.56, 1012.795, and 1013.12, F.S.; amending and reenacting s. 409.2563, F.S.; and reenacting ss. 61.13001 and 627.351(2), 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that have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and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. Subsection (10) of section 39.01, Florida Statutes, is amended to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(10) "Caregiver" means the parent, legal custodian, permanent guardian, adult household member, or other person responsible for a child's welfare as defined in subsection (47) ~~(46)~~.

Reviser's note.—Amended to conform to the redesignation of subsection (46) as subsection (47) by s. 1, ch. 2008-245, Laws of Florida.

Section 2. Paragraph (k) of subsection (1) of section 39.806, Florida Statutes, is amended to read:

39.806 Grounds for termination of parental rights.—

(1) Grounds for the termination of parental rights may be established under any of the following circumstances:

(k) A test administered at birth that indicated that the child's blood, urine, or meconium contained any amount of alcohol or a controlled substance or metabolites of such substances, the presence of which was not the result of medical treatment administered to the mother or the newborn infant, and the biological mother of the child is the biological mother of at least one other child who was adjudicated dependent after a finding of harm to the child's health or welfare due to exposure to a controlled substance or alcohol as defined in s. 39.01(32)(g) ~~39.01(31)(g)~~, after which the biological mother had the opportunity to participate in substance abuse treatment.

Reviser's note.—Amended to conform to the redesignation of s. 39.01(31)(g) as s. 39.01(32)(g) by s. 1, ch. 2008-245, Laws of Florida.

Section 3. Subsection (3) of section 45.035, Florida Statutes, is amended to read:

45.035 Clerk's fees.—In addition to other fees or service charges authorized by law, the clerk shall receive service charges related to the judicial sales procedure set forth in ss. 45.031-45.034 and this section:

(3) If the sale is conducted by electronic means, as provided in s. 45.031(10), the clerk shall receive a service charge of $70 ~~$60~~ as provided in subsection (1) for services in conducting or contracting for the electronic sale, which service charge shall be assessed as costs and shall be advanced by the plaintiff before the sale. If the clerk requires advance electronic deposits to secure the right to bid, such deposits shall not be subject to the fee under s. 28.24(10). The portion of an advance deposit from a winning bidder required by s. 45.031(3) shall, upon acceptance of the winning bid, be subject to the fee under s. 28.24(10).

Reviser's note.—Amended to conform to the increase in the service charge referenced in subsection (1) from $60 to $70 by s. 25, ch. 2008-111, Laws of Florida.

Section 4. Subsection (3) of section 61.122, Florida Statutes, is amended to read:

61.122 Parenting plan recommendation; presumption of psychologist's good faith; prerequisite to parent's filing suit; award of fees, costs, reimbursement.—

(3) A parent who desires to file a legal action against a court-appointed psychologist who has acted in good faith in developing a parenting plan recommendation must petition the judge who presided over the dissolution of marriage, case of domestic violence, or paternity matter involving the relationship of a child and a parent, including time-sharing of children, to appoint another psychologist. Upon the parent's showing of good cause, the court shall appoint another psychologist. The court shall determine ~~as to~~ who is responsible for all court costs and attorney's fees associated with making such an appointment.

Reviser's note.—Amended to improve clarity.

Section 5. Section 61.13001, Florida Statutes, is reenacted to read:

61.13001 Parental relocation with a child.—

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

(a) "Change of residence address" means the relocation of a child to a principal residence more than 50 miles away from his or her principal place of residence at the time of the entry of the last order establishing or modifying the parenting plan or the time-sharing schedule or both for the minor child, unless the move places the principal residence of the minor child less than 50 miles from either parent.

(b) "Child" means any person who is under the jurisdiction of a state court pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act or is the subject of any order granting to a parent or other person any right to time-sharing, residential care, kinship, or custody, as provided under state law.

(c) "Court" means the circuit court in an original proceeding which has proper venue and jurisdiction in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act, the circuit court in the county in which either parent and the child reside, or the circuit court in which the original action was adjudicated.

(d) "Other person" means an individual who is not the parent and who, by court order, maintains the primary residence of a child or has visitation rights with a child.

(e) "Parent" means any person so named by court order or express written agreement that is subject to court enforcement or a person reflected as a parent on a birth certificate and in whose home a child maintains a residence.

(f) "Relocation" means a change in the principal residence of a child for a period of 60 consecutive days or more but does not include a temporary absence from the principal residence for purposes of vacation, education, or the provision of health care for the child.

(2) RELOCATION BY AGREEMENT.—

(a) If the parents and every other person entitled to time-sharing with the child agree to the relocation of the child, they may satisfy the requirements of this section by signing a written agreement that:

1. Reflects the consent to the relocation;

2. Defines a time-sharing schedule for the nonrelocating parent and any other persons who are entitled to time-sharing; and

3. Describes, if necessary, any transportation arrangements related to the visitation.

(b) If there is an existing cause of action, judgment, or decree of record pertaining to the child's residence or a time-sharing schedule, the parties shall seek ratification of the agreement by court order without the necessity of an evidentiary hearing unless a hearing is requested, in writing, by one or more of the parties to the agreement within 10 days after the date the agreement is filed with the court. If a hearing is not timely requested, it shall be presumed that the relocation is in the best interest of the child and the court may ratify the agreement without an evidentiary hearing.

(3) NOTICE OF INTENT TO RELOCATE WITH A CHILD.—Unless an agreement has been entered as described in subsection (2), a parent who is entitled to time-sharing with the child shall notify the other parent, and every other person entitled to time-sharing with the child, of a proposed relocation of the child's residence. The form of notice shall be according to this section:

(a) The parent seeking to relocate shall prepare a Notice of Intent to Relocate. The following information must be included with the Notice of Intent to Relocate and signed under oath under penalty of perjury:

1. A description of the location of the intended new residence, including the state, city, and specific physical address, if known.

2. The mailing address of the intended new residence, if not the same as the physical address, if known.

3. The home telephone number of the intended new residence, if known.

4. The date of the intended move or proposed relocation.

5. A detailed statement of the specific reasons for the proposed relocation of the child. If one of the reasons is based upon a job offer which has been reduced to writing, that written job offer must be attached to the Notice of Intent to Relocate.

6. A proposal for the revised postrelocation schedule of time-sharing together with a proposal for the postrelocation transportation arrangements necessary to effectuate time-sharing with the child. Absent the existence of a current, valid order abating, terminating, or restricting visitation or other good cause predating the Notice of Intent to Relocate, failure to comply with this provision renders the Notice of Intent to Relocate legally insufficient.

7. Substantially the following statement, in all capital letters and in the same size type, or larger, as the type in the remainder of the notice:

AN OBJECTION TO THE PROPOSED RELOCATION MUST BE MADE IN WRITING, FILED WITH THE COURT, AND SERVED ON THE PARENT OR OTHER PERSON SEEKING TO RELOCATE WITHIN 30 DAYS AFTER SERVICE OF THIS NOTICE OF INTENT TO RELOCATE. IF YOU FAIL TO TIMELY OBJECT TO THE RELOCATION, THE RELOCATION WILL BE ALLOWED, UNLESS IT IS NOT IN THE BEST INTERESTS OF THE CHILD, WITHOUT FURTHER NOTICE AND WITHOUT A HEARING.

8. The mailing address of the parent or other person seeking to relocate to which the objection filed under subsection (5) to the Notice of Intent to Relocate should be sent.

The contents of the Notice of Intent to Relocate are not privileged. For purposes of encouraging amicable resolution of the relocation issue, a copy of the Notice of Intent to Relocate shall initially not be filed with the court but instead served upon the nonrelocating parent, other person, and every other person entitled to time-sharing with the child, and the original thereof shall be maintained by the parent or other person seeking to relocate.

(b) The parent seeking to relocate shall also prepare a Certificate of Serving Notice of Intent to Relocate. The certificate shall certify the date that the Notice of Intent to Relocate was served on the other parent and on every other person entitled to time-sharing with the child.

(c) The Notice of Intent to Relocate, and the Certificate of Serving Notice of Intent to Relocate, shall be served on the other parent and on every other person entitled to time-sharing with the child. If there is a pending court action regarding the child, service of process may be according to court rule. Otherwise, service of process shall be according to chapters 48 and 49 or via certified mail, restricted delivery, return receipt requested.

(d) A person giving notice of a proposed relocation or change of residence address under this section has a continuing duty to provide current and updated information required by this section when that information becomes known.

(e) If the other parent and any other person entitled to time-sharing with the child fails to timely file an objection, it shall be presumed that the relocation is in the best interest of the child, the relocation shall be allowed, and the court shall, absent good cause, enter an order, attaching a copy of the Notice of Intent to Relocate, reflecting that the order is entered as a result of the failure to object to the Notice of Intent to Relocate, and adopting the time-sharing schedule and transportation arrangements contained in the Notice of Intent to Relocate. The order may issue in an expedited manner without the necessity of an evidentiary hearing. If an objection is timely filed, the burden returns to the parent or person seeking to relocate to initiate court proceedings to obtain court permission to relocate before doing so.

(f) The act of relocating the child after failure to comply with the notice of intent to relocate procedure described in this subsection subjects the party in violation thereof to contempt and other proceedings to compel the return of the child and may be taken into account by the court in any initial or postjudgment action seeking a determination or modification of the parenting plan or the time-sharing schedule, or both, as:

1. A factor in making a determination regarding the relocation of a child.

2. A factor in determining whether the parenting plan or the time-sharing schedule should be modified.

3. A basis for ordering the temporary or permanent return of the child.

4. Sufficient cause to order the parent or other person seeking to relocate the child to pay reasonable expenses and attorney's fees incurred by the party objecting to the relocation.

5. Sufficient cause for the award of reasonable attorney's fees and costs, including interim travel expenses incident to time-sharing or securing the return of the child.

(4) APPLICABILITY OF PUBLIC RECORDS LAW.—If the parent or other person seeking to relocate a child, or the child, is entitled to prevent disclosure of location information under any public records exemption applicable to that person, the court may enter any order necessary to modify the disclosure requirements of this section in compliance with the public records exemption.

(5) CONTENT OF OBJECTION TO RELOCATION.—An objection seeking to prevent the relocation of a child must be verified and served within 30 days after service of the Notice of Intent to Relocate. The objection must include the specific factual basis supporting the reasons for seeking a prohibition of the relocation, including a statement of the amount of participation or involvement the objecting party currently has or has had in the life of the child.

(6) TEMPORARY ORDER.—

(a) The court may grant a temporary order restraining the relocation of a child or ordering the return of the child, if a relocation has previously taken place, or other appropriate remedial relief, if the court finds:

1. The required notice of a proposed relocation of a child was not provided in a timely manner;

2. The child already has been relocated without notice or written agreement of the parties or without court approval; or

3. From an examination of the evidence presented at the preliminary hearing that there is a likelihood that upon final hearing the court will not approve the relocation of the child.

(b) The court may grant a temporary order permitting the relocation of the child pending final hearing, if the court:

1. Finds that the required Notice of Intent to Relocate was provided in a timely manner; and

2. Finds from an examination of the evidence presented at the preliminary hearing that there is a likelihood that on final hearing the court will approve the relocation of the child, which findings must be supported by the same factual basis as would be necessary to support the permitting of relocation in a final judgment.

(c) If the court has issued a temporary order authorizing a party seeking to relocate or move a child before a final judgment is rendered, the court may not give any weight to the temporary relocation as a factor in reaching its final decision.

(d) If temporary relocation of a child is permitted, the court may require the person relocating the child to provide reasonable security, financial or otherwise, and guarantee that the court-ordered contact with the child will not be interrupted or interfered with by the relocating party.

(7) NO PRESUMPTION; FACTORS TO DETERMINE CONTESTED RELOCATION.—A presumption does not arise in favor of or against a request to relocate with the child when a parent seeks to move the child and the move will materially affect the current schedule of contact, access, and time-sharing with the nonrelocating parent or other person. In reaching its decision regarding a proposed temporary or permanent relocation, the court shall evaluate all of the following factors:

(a) The nature, quality, extent of involvement, and duration of the child's relationship with the parent proposing to relocate with the child and with the nonrelocating parent, other persons, siblings, half-siblings, and other significant persons in the child's life.

(b) The age and developmental stage of the child, the needs of the child, and the likely impact the relocation will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child.

(c) The feasibility of preserving the relationship between the nonrelocating parent or other person and the child through substitute arrangements that take into consideration the logistics of contact, access, and time-sharing, as well as the financial circumstances of the parties; whether those factors are sufficient to foster a continuing meaningful relationship between the child and the nonrelocating parent or other person; and the likelihood of compliance with the substitute arrangements by the relocating parent once he or she is out of the jurisdiction of the court.

(d) The child's preference, taking into consideration the age and maturity of the child.

(e) Whether the relocation will enhance the general quality of life for both the parent seeking the relocation and the child, including, but not limited to, financial or emotional benefits or educational opportunities.

(f) The reasons of each parent or other person for seeking or opposing the relocation.

(g) The current employment and economic circumstances of each parent or other person and whether or not the proposed relocation is necessary to improve the economic circumstances of the parent or other person seeking relocation of the child.

(h) That the relocation is sought in good faith and the extent to which the objecting parent has fulfilled his or her financial obligations to the parent

or other person seeking relocation, including child support, spousal support, and marital property and marital debt obligations.

(i) The career and other opportunities available to the objecting parent or objecting other person if the relocation occurs.

(j) A history of substance abuse or domestic violence as defined in s. 741.28 or which meets the criteria of s. 39.806(1)(d) by either parent, including a consideration of the severity of such conduct and the failure or success of any attempts at rehabilitation.

(k) Any other factor affecting the best interest of the child or as set forth in s. 61.13.

(8) BURDEN OF PROOF.—The parent or other person wishing to relocate has the burden of proof if an objection is filed and must then initiate a proceeding seeking court permission for relocation. The initial burden is on the parent or person wishing to relocate to prove by a preponderance of the evidence that relocation is in the best interest of the child. If that burden of proof is met, the burden shifts to the nonrelocating parent or other person to show by a preponderance of the evidence that the proposed relocation is not in the best interest of the child.

(9) ORDER REGARDING RELOCATION.—If relocation is permitted:

(a) The court may, in its discretion, order contact with the nonrelocating parent, including access, time-sharing, telephone, Internet, webcam, and other arrangements sufficient to ensure that the child has frequent, continuing, and meaningful contact, access, and time-sharing with the nonrelocating parent or other persons, if contact is financially affordable and in the best interest of the child.

(b) If applicable, the court shall specify how the transportation costs will be allocated between the parents and other persons entitled to contact, access, and time-sharing and may adjust the child support award, as appropriate, considering the costs of transportation and the respective net incomes of the parents in accordance with the state child support guidelines schedule.

(10) PRIORITY FOR HEARING OR TRIAL.—An evidentiary hearing or nonjury trial on a pleading seeking temporary or permanent relief filed under this section shall be accorded priority on the court's calendar.

(11) APPLICABILITY.—

(a) This section applies:

1. To orders entered before October 1, 2006, if the existing order defining custody, primary residence, time-sharing, or visitation of or with the child does not expressly govern the relocation of the child.

2. To an order, whether temporary or permanent, regarding the parenting plan, custody, primary residence, time-sharing, or visitation of or with the child entered on or after October 1, 2006.

3. To any relocation or proposed relocation, whether permanent or temporary, of a child during any proceeding pending on October 1, 2006, wherein the parenting plan, custody, primary residence, time-sharing, or visitation of or with the child is an issue.

(b) To the extent that a provision of this section conflicts with an order existing on October 1, 2006, this section does not apply to the terms of that order which expressly govern relocation of the child or a change in the principal residence address of a parent.

Reviser's note.—Section 9, ch. 2008-61, Laws of Florida, amended s. 61.13001 without publishing existing subsection (8). Absent affirmative evidence of legislative intent to repeal existing subsection (8), s. 61.13001 is reenacted to confirm that the omission was not intended.

Section 6. Paragraph (a) of subsection (5) of section 112.661, Florida Statutes, is amended to read:

112.661 Investment policies.—Investment of the assets of any local retirement system or plan must be consistent with a written investment policy adopted by the board. Such policies shall be structured to maximize the financial return to the retirement system or plan consistent with the risks incumbent in each investment and shall be structured to establish and maintain an appropriate diversification of the retirement system or plan's assets.

(5) AUTHORIZED INVESTMENTS.—

(a) The investment policy shall list investments authorized by the board. Investments not listed in the investment policy are prohibited. Unless otherwise authorized by law or ordinance, the investment of the assets of any local retirement system or plan covered by this part shall be subject to the limitations and conditions set forth in s. 215.47(1)-(6), (8), (9), (11), and (17) ~~215.47(1)-(8), (10), and (16)~~.

Reviser's note.—Amended to conform to the addition of a new s. 215.47(7) by s. 3, ch. 2008-31, Laws of Florida.

Section 7. Paragraph (a) of subsection (1) of section 121.051, Florida Statutes, is amended to read:

121.051 Participation in the system.—

(1) COMPULSORY PARTICIPATION.—

(a) The provisions of this law shall be compulsory as to all officers and employees, except elected officers who meet the requirements of s. 121.052(3), who are employed on or after December 1, 1970, of an employer other than those referred to in paragraph (2)(b), and each officer or employee, as a condition of employment, shall become a member of the system as of his or her date of employment, except that a person who is retired from any state retirement system and is reemployed on or after December 1, 1970, may not renew his or her membership in any state retirement system except

as provided in s. 121.091(4)(h) for a person who recovers from disability, and as provided in s. 121.091(9)(b)8. for a person who is elected to public office, and, effective July 1, 1991, as provided in s. 121.122 for all other retirees. Officers and employees of the University Athletic Association, Inc., a nonprofit association connected with the University of Florida, employed on and after July 1, 1979, shall not participate in any state-supported retirement system.

1. Any person appointed on or after July 1, 1989, to a faculty position in a college at the J. Hillis Miller Health Center at the University of Florida or the Medical Center at the University of South Florida which has a faculty practice plan provided by rule adopted by the Board of Regents may not participate in the Florida Retirement System. Effective July 1, 2008, any person appointed thereafter to a faculty position, including clinical faculty, in a college at a state university that has a faculty practice plan authorized by the Board of Governors may not participate in the Florida Retirement System. A faculty member so appointed shall participate in the optional retirement program for the State University System notwithstanding the provisions of s. 121.35(2)(a).

2. For purposes of this paragraph ~~subparagraph~~, the term "faculty position" is defined as a position assigned the principal responsibility of teaching, research, or public service activities or administrative responsibility directly related to the academic mission of the college. The term "clinical faculty" is defined as a faculty position appointment in conjunction with a professional position in a hospital or other clinical environment at a college. The term "faculty practice plan" includes professional services to patients, institutions, or other parties which are rendered by the clinical faculty employed by a college that has a faculty practice plan at a state university authorized by the Board of Governors.

Reviser's note.—The word "paragraph" was substituted by the editors for the word "subparagraph" to conform to context.

Section 8. Paragraph (a) of subsection (2) of section 121.153, Florida Statutes, is amended to read:

121.153 Investments in institutions doing business in or with Northern Ireland.—

(2)(a) Notwithstanding any other provision of law, and consistent with the investment policy set forth in ss. 215.44(2) and 215.47(10) ~~215.47(9)~~, the moneys or assets of the System Trust Fund invested or deposited in any financial institution, as defined in s. 655.005, which, directly or through a subsidiary, on or after October 1, 1988, makes any loan, extends credit of any kind or character, or advances funds in any manner to Northern Ireland or national corporations of Northern Ireland or agencies or instrumentalities thereof shall reflect the extent to which such entities have endeavored to eliminate ethnic or religious discrimination as determined pursuant to paragraph (1)(b).

Reviser's note.—Amended to conform to the addition of a new s. 215.47(7) by s. 3, ch. 2008-31, Laws of Florida.

Section 9. Paragraph (a) of subsection (9) of section 161.085, Florida Statutes, is amended to read:

161.085 Rigid coastal armoring structures.—

(9) The department may authorize dune restoration incorporating sand-filled geotextile containers or similar structures proposed as the core of a restored dune feature when the conditions of paragraphs (a)-(c) and the requirements of s. 161.053 are met.

(a) A permit may be granted by the department under this subsection for dune restoration incorporating geotextile containers or similar structures provided that such projects:

1. Provide for the protection of an existing major structure or public infrastructure, and, notwithstanding any definition in department rule to the contrary, that major structure or public infrastructure is vulnerable to damage from frequent coastal storms, or is upland of a beach-dune system which has experienced significant beach erosion from such storm events.

2. Are constructed using native or beach-quality sand and native salt-tolerant vegetation suitable for dune stabilization as approved by the department.

3. May include materials other than native or beach-quality sand such as geotextile materials that are used to contain beach-quality sand for the purposes of maintaining the stability and longevity of the dune core.

4. Are continuously covered with 3 feet of native or beach-quality sand and stabilized with native salt-tolerant vegetation.

5. Are sited as far landward as practicable, balancing the need to minimize excavation of the beach-dune system, impacts to nesting marine turtles and other nesting state or federally threatened or endangered species, and impacts to adjacent properties.

6. Are designed and sited in a manner that will minimize the potential for erosion.

7. Do not materially impede access by the public.

8. Are designed to minimize adverse effects to nesting marine turtles and turtle hatchlings, consistent with s. 379.2431 ~~370.12~~.

9. Are designed to facilitate easy removal of the geotextile containers if needed.

10. The United States Fish and Wildlife Service has approved an Incidental Take Permit for marine turtles and other federally threatened or endangered species pursuant to s. 7 or s. 10 of the Endangered Species Act for the placement of the structure if an Incidental Take Permit is required.

Reviser's note.—Amended to conform to the transfer of s. 370.12 to s. 379.2431 by s. 73, ch. 2008-247, Laws of Florida.

Section 10. Paragraph (c) of subsection (6) of section 163.3177, Florida Statutes, is amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5) and (12), the comprehensive plan shall include the following elements:

(c) A general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer recharge protection requirements for the area. The element may be a detailed engineering plan including a topographic map depicting areas of prime groundwater recharge. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The element shall also include a topographic map depicting any areas adopted by a regional water management district as prime groundwater recharge areas for the Floridan or Biscayne aquifers. These areas shall be given special consideration when the local government is engaged in zoning or considering future land use for said designated areas. For areas served by septic tanks, soil surveys shall be provided which indicate the suitability of soils for septic tanks. Within 18 months after the governing board approves an updated regional water supply plan, the element must incorporate the alternative water supply project or projects selected by the local government from those identified in the regional water supply plan pursuant to s. 373.0361(2)(a) or proposed by the local government under s. 373.0361(8)(b) ~~373.0361(7)(b)~~. If a local government is located within two water management districts, the local government shall adopt its comprehensive plan amendment within 18 months after the later updated regional water supply plan. The element must identify such alternative water supply projects and traditional water supply projects and conservation and reuse necessary to meet the water needs identified in s. 373.0361(2)(a) within the local government's jurisdiction and include a work plan, covering at least a 10 year planning period, for building public, private, and regional water supply facilities, including development of alternative water supplies, which are identified in the element as necessary to serve existing and new development. The work plan shall be updated, at a minimum, every 5 years within 18 months after the governing board of a water management district approves an updated regional water supply plan. Amendments to incorporate the work plan do not count toward the limitation on the frequency of adoption of amendments to the comprehensive plan. Local governments, public and private utilities, regional water supply authorities, special districts, and water management districts are encouraged to cooperatively plan for the development of multijurisdictional water supply facilities that are sufficient to meet projected demands for established planning periods, including the development of alternative water sources to supplement traditional sources of groundwater and surface water supplies.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 373.0361 by s. 1, ch. 2008-232, Laws of Florida.

Section 11. Section 193.074, Florida Statutes, is amended to read:

193.074 Confidentiality of returns.—All returns of property and returns required by former s. 201.022 submitted by the taxpayer pursuant to law shall be deemed to be confidential in the hands of the property appraiser, the clerk of the circuit court, the department, the tax collector, the Auditor General, and the Office of Program Policy Analysis and Government Accountability, and their employees and persons acting under their supervision and control, except upon court order or order of an administrative body having quasi-judicial powers in ad valorem tax matters, and such returns are exempt from the provisions of s. 119.07(1).

Reviser's note.—Amended to conform to the repeal of s. 201.022 by s. 1, ch. 2008-24, Laws of Florida.

Section 12. Paragraph (b) of subsection (6) of section 193.1554, Florida Statutes, is amended to read:

193.1554 Assessment of nonhomestead residential property.—

(6)

(b) Changes, additions, or improvements that replace all or a portion of nonhomestead residential property damaged or destroyed by misfortune or calamity shall not increase the property's assessed value when the square footage of the property as changed or improved does not exceed 110 percent of the square footage of the property before the damage or destruction. Additionally, the property's assessed value shall not increase if the total square footage of the property as changed or improved does not exceed 1,500 square feet. Changes, additions, or improvements that do not cause the total to exceed 110 percent of the total square footage of the property before the damage or destruction or that do not cause the total to exceed 1,500 total square feet shall be reassessed as provided under subsection (3). The property's assessed value shall be increased by the just value of that portion of the changed or improved property which is in excess of 110 percent of the square footage of the property before the damage or destruction or of that portion exceeding 1,500 square feet. Property damaged or destroyed by misfortune or calamity which, after being changed or improved, has a square footage of less than 100 percent of the property's total square footage before the damage or destruction shall be assessed pursuant to subsection (8) ~~(7)~~. This paragraph applies to changes, additions, or improvements commenced within 3 years after the January 1 following the damage or destruction of the property.

Reviser's note.—Amended to conform to the redesignation of subsection (7) as subsection (8) by s. 4, ch. 2008-173, Laws of Florida.

Section 13. Paragraph (b) of subsection (6) of section 193.1555, Florida Statutes, is amended to read:

193.1555 Assessment of certain residential and nonresidential real property.—

(6)

(b) Changes, additions, or improvements that replace all or a portion of nonresidential real property damaged or destroyed by misfortune or calamity shall not increase the property's assessed value when the square footage of the property as changed or improved does not exceed 110 percent of the square footage of the property before the damage or destruction and do not change the property's character or use. Changes, additions, or improvements that do not cause the total to exceed 110 percent of the total square footage of the property before the damage or destruction and do not change the property's character or use shall be reassessed as provided under subsection (3). The property's assessed value shall be increased by the just value of that portion of the changed or improved property which is in excess of 110 percent of the square footage of the property before the damage or destruction. Property damaged or destroyed by misfortune or calamity which, after being changed or improved, has a square footage of less than 100 percent of the property's total square footage before the damage or destruction shall be assessed pursuant to subsection (8) ~~(7)~~. This paragraph applies to changes, additions, or improvements commenced within 3 years after the January 1 following the damage or destruction of the property.

Reviser's note.—Amended to conform to the redesignation of subsection (7) as subsection (8) by s. 5, ch. 2008-173, Laws of Florida.

Section 14. Paragraph (c) of subsection (1) and subsection (5) of section 201.15, Florida Statutes, are amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter are subject to the service charge imposed in s. 215.20(1). Prior to distribution under this section, the Department of Revenue shall deduct amounts necessary to pay the costs of the collection and enforcement of the tax levied by this chapter. Such costs and the service charge may not be levied against any portion of taxes pledged to debt service on bonds to the extent that the costs and service charge are required to pay any amounts relating to the bonds. All taxes remaining after deduction of costs and the service charge shall be distributed as follows:

(1) Sixty-three and thirty-one hundredths percent of the remaining taxes collected under this chapter shall be used for the following purposes:

(c) The remainder of the moneys distributed under this subsection, after the required payments under paragraphs (a) and (b), shall be paid into the State Treasury to the credit of:

1. The State Transportation Trust Fund in the Department of Transportation in the amount of the lesser of 38.2 percent of the remainder or $541.75 million in each fiscal year, to be used for the following specified purposes, notwithstanding any other law to the contrary:

a. For the purposes of capital funding for the New Starts Transit Program, authorized by Title 49, U.S.C. s. 5309 and specified in s. 341.051, 10 percent of these funds;

b. For the purposes of the Small County Outreach Program specified in s. 339.2818, 5 percent of these funds;

c. For the purposes of the Strategic Intermodal System specified in ss. 339.61, 339.62, 339.63, and 339.64, 75 percent of these funds after allocating for the New Starts Transit Program described in sub-subparagraph a. and the Small County Outreach Program described in sub-subparagraph b.; and

d. For the purposes of the Transportation Regional Incentive Program specified in s. 339.2819, 25 percent of these funds after allocating for the New Starts Transit Program described in sub-subparagraph a. and the Small County Outreach Program described in sub-subparagraph b.

2. The Water Protection and Sustainability Program Trust Fund in the Department of Environmental Protection in the amount of the lesser of 5.64 percent of the remainder or $80 million in each fiscal year, to be used as required by s. 403.890.

3. The Grants and Donations Trust Fund in the Department of Community Affairs in the amount of the lesser of .23 percent of the remainder or $3.25 million in each fiscal year, with 92 percent to be used to fund technical assistance to local governments and school boards on the requirements and implementation of this act and the remaining amount to be used to fund the Century Commission established in s. 163.3247.

4. The Ecosystem Management and Restoration Trust Fund in the amount of the lesser of 2.12 percent of the remainder or $30 million in each fiscal year, to be used for the preservation and repair of the state's beaches as provided in ss. 161.091-161.212.

5. The Marine Resources Conservation Trust Fund in the amount of the lesser of .14 percent of the remainder or $2 million in each fiscal year, to be used for marine mammal care as provided in s. 379.208(3) ~~370.0603(3)~~.

6. General Inspection Trust Fund in the amount of the lesser of .02 percent of the remainder or $300,000 in each fiscal year to be used to fund oyster management and restoration programs as provided in s. 379.362(3) ~~370.07(3)~~.

Moneys distributed pursuant to this paragraph may not be pledged for debt service unless such pledge is approved by referendum of the voters.

~~(5)(a) For the 2007-2008 fiscal year, 3.96 percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the Conservation and Recreation Lands Trust Fund to carry out the purposes set forth in s. 259.032. Ten and five-hundredths percent of the amount credited to the Conservation and Recreation Lands Trust Fund pursuant to this subsection shall be transferred to the State Game Trust Fund and used for land management activities.~~

~~(b)~~ Beginning July 1, 2008, 3.52 percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the Conservation and Recreation Lands Trust Fund to carry out the purposes

set forth in s. 259.032. Eleven and fifteen hundredths percent of the amount credited to the Conservation and Recreation Lands Trust Fund pursuant to this subsection shall be transferred to the State Game Trust Fund and used for land management activities.

Reviser's note.—Paragraph (1)(c) is amended to conform to the redesignation of s. 370.0603(3) as s. 379.208(3) by s. 18, ch. 2008-247, Laws of Florida, and the redesignation of s. 370.07(3) as s. 379.362(3) by s. 147, ch. 2008-247. Subsection (5) is amended to delete obsolete language applicable only to the 2007-2008 fiscal year.

Section 15. Subsection (4) of section 211.31, Florida Statutes, is amended to read:

211.31 Levy of tax on severance of certain solid minerals; rate, basis, and distribution of tax.—

(4) The expenses of administering this part and ss. ~~378.011,~~ 378.021, 378.031, and 378.101 shall be borne by the Land Reclamation Trust Fund, the Nonmandatory Land Reclamation Trust Fund, and the Phosphate Research Trust Fund.

Reviser's note.—Amended to conform to the repeal of s. 378.011 by s. 24, ch. 2008-150, Laws of Florida.

Section 16. Subsection (4) of section 215.50, Florida Statutes, is amended to read:

215.50 Custody of securities purchased; income.—

(4) Securities that the board selects to use for options operations under s. 215.45 or for lending under s. 215.47(17) ~~215.47(16)~~ shall be registered by the Chief Financial Officer in the name of a third-party nominee in order to facilitate such operations.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 215.47 by s. 3, ch. 2008-31, Laws of Florida.

Section 17. Paragraph (a) of subsection (7) of section 215.555, Florida Statutes, is amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(7) ADDITIONAL POWERS AND DUTIES.—

(a) The board may procure reinsurance from reinsurers acceptable to the Office of Insurance Regulation for the purpose of maximizing the capacity of the fund and may enter into capital market transactions, including, but not limited to, industry loss warranties, catastrophe bonds, side-car arrangements, or financial contracts permissible for the board's usage under s. 215.47(11) and (12) ~~215.47(10) and (11)~~, consistent with prudent management of the fund.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 215.47 by s. 3, ch. 2008-31, Laws of Florida.

Section 18. Paragraph (b) of subsection (1) of section 215.5595, Florida Statutes, is amended to read:

215.5595 Insurance Capital Build-Up Incentive Program.—

(1) Upon entering the 2008 hurricane season, the Legislature finds that:

(b) Citizens Property Insurance Corporation has over 1.2 million policies in force, has the largest market share of any insurer writing residential property insurance ~~insurer~~ in the state, and faces the threat of a catastrophic loss that must be funded by assessments against insurers and policyholders, unless otherwise funded by the state. The program has a substantial positive effect on the depopulation efforts of Citizens Property Insurance Corporation since companies participating in the program have removed over 199,000 policies from the corporation. Companies participating in the program have issued a significant number of new policies, thereby keeping an estimated 480,000 new policies out of the corporation.

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

Section 19. Paragraph (a) of subsection (2) of section 218.409, Florida Statutes, is amended to read:

218.409 Administration of the trust fund; creation of advisory council.—

(2)(a) The trustees shall ensure that the board or a professional money management firm administers the trust fund on behalf of the participants. The board or a professional money management firm shall have the power to invest such funds in accordance with a written investment policy. The investment policy shall be updated annually to conform to best investment practices. The standard of prudence to be used by investment officials shall be the fiduciary standards as set forth in s. 215.47(10) ~~215.47(9)~~, which shall be applied in the context of managing an overall portfolio. Portfolio managers acting in accordance with written procedures and an investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and the liquidity and the sale of securities are carried out in accordance with the terms of this part.

Reviser's note.—Amended to conform to the redesignation of subunits of s. 215.47 by s. 3, ch. 2008-31, Laws of Florida.

Section 20. Subsection (16) of section 253.03, Florida Statutes, is amended to read:

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

(16) The Board of Trustees of the Internal Improvement Trust Fund, and the state through its agencies, may not control, regulate, permit, or charge for any severed materials which are removed from the area adjacent to an intake or discharge structure pursuant to an exemption authorized in s. 403.813(1)(f) and (r) ~~403.813(2)(f) and (r)~~.

Reviser's note.—Amended to conform to the redesignation of s. 403.813(2) as s. 403.813(1) by s. 4, ch. 2008-40, Laws of Florida.

Section 21. Paragraph (c) of subsection (11) of section 259.032, Florida Statutes, is amended to read:

259.032 Conservation and Recreation Lands Trust Fund; purpose.—

(11)

(c) The Land Management Uniform Accounting Council shall prepare and deliver a report on the methodology and formula for allocating land management funds to the Acquisition and Restoration Council. The Acquisition and Restoration Council shall review, modify as appropriate, and submit the report to the Board of Trustees of the Internal Improvement Trust Fund. The board of trustees shall review, modify as appropriate, and submit the report to the President of the Senate and the Speaker of the House of Representatives no later than December 31, 2008, which provides an interim management formula and a long-term management formula, and the methodologies used to develop the formulas, which shall be used to allocate land management funds provided for in paragraph (b) for interim and long-term management of all lands managed pursuant to this chapter and for associated contractual services. The methodology and formula for interim management shall be based on the estimated land acquisitions for the fiscal year in which the interim funds will be expended. The methodology and formula for long-term management shall recognize, but not be limited to, the following:

1. The assignment of management intensity associated with managed habitats and natural communities and the related management activities to achieve land management goals provided in s. 253.034(5) ~~253.054(5)~~ and subsection (10).

a. The acres of land that require minimal effort for resource preservation or restoration.

b. The acres of land that require moderate effort for resource preservation or restoration.

c. The acres of land that require significant effort for resource preservation or restoration.

2. The assignment of management intensity associated with public access, including, but not limited to:

a. The acres of land that are open to the public but offer no more than minimally developed facilities;

b. The acres of land that have a high degree of public use and offer highly developed facilities; and

c. The acres of land that are sites that have historic significance, unique natural features, or a very high degree of public use.

3. The acres of land that have a secondary manager contributing to the overall management effort.

4. The anticipated revenues generated from management of the lands.

5. The impacts of, and needs created or addressed by, multiple-use management strategies.

6. The acres of land that have infestations of nonnative or invasive plants, animals, or fish.

In evaluating the management funding needs of lands based on the above categories, the lead land managing agencies shall include in their considerations the impacts of, and needs created or addressed by, multiple-use management strategies. The funding formulas for interim and long-term management proposed by the agencies shall be reviewed by the Legislature during the 2009 regular legislative session. The Legislature may reject, modify, or take no action relative to the proposed funding formulas. If no action is taken, the funding formulas shall be used in the allocation and distribution of funds provided in paragraph (b).

Reviser's note.—Amended to conform to the fact that s. 253.054 does not exist; s. 253.034(5) relates to land management goals.

Section 22. Paragraph (a) of subsection (2) of section 259.105, Florida Statutes, is amended to read:

259.105 The Florida Forever Act.—

(2)(a) The Legislature finds and declares that:

1. Land acquisition programs have provided tremendous financial resources for purchasing environmentally significant lands to protect those lands from imminent development or alteration, thereby ensuring present and future generations' access to important waterways, open spaces, and recreation and conservation lands.

2. The continued alteration and development of Florida's natural and rural areas to accommodate the state's growing population have contributed to the degradation of water resources, the fragmentation and destruction of wildlife habitats, the loss of outdoor recreation space, and the diminishment of wetlands, forests, working landscapes, and coastal open space.

3. The potential development of Florida's remaining natural areas and escalation of land values require government efforts to restore, bring under public protection, or acquire lands and water areas to preserve the state's essential ecological functions and invaluable quality of life.

4. It is essential to protect the state's ecosystems by promoting a more efficient use of land, to ensure opportunities for viable agricultural activities on working lands, and to promote vital rural and urban communities that support and produce development patterns consistent with natural resource protection.

5. Florida's groundwater, surface waters, and springs are under tremendous pressure due to population growth and economic expansion and require special protection and restoration efforts, including the protection of uplands and springsheds that provide vital recharge to aquifer systems and are critical to the protection of water quality and water quantity of the aquifers and springs. To ensure that sufficient quantities of water are available to meet the current and future needs of the natural systems and citizens of the state, and assist in achieving the planning goals of the department and the water management districts, water resource development projects on public lands, where compatible with the resource values of and management objectives for the lands, are appropriate.

6. The needs of urban, suburban, and small communities in Florida for high-quality outdoor recreational opportunities, greenways, trails, and open space have not been fully met by previous acquisition programs. Through such programs as the Florida Communities Trust and the Florida Recreation Development Assistance Program, the state shall place additional emphasis on acquiring, protecting, preserving, and restoring open space, ecological greenways, and recreation properties within urban, suburban, and rural areas where pristine natural communities or water bodies no longer exist because of the proximity of developed property.

7. Many of Florida's unique ecosystems, such as the Florida Everglades, are facing ecological collapse due to Florida's burgeoning population growth and other economic activities. To preserve these valuable ecosystems for future generations, essential parcels of land must be acquired to facilitate ecosystem restoration.

8. Access to public lands to support a broad range of outdoor recreational opportunities and the development of necessary infrastructure, where compatible with the resource values of and management objectives for such lands, promotes an appreciation for Florida's natural assets and improves the quality of life.

9. Acquisition of lands, in fee simple, less-than-fee interest, or other techniques shall be based on a comprehensive science-based assessment of Florida's natural resources which targets essential conservation lands by prioritizing all current and future acquisitions based on a uniform set of data and planned so as to protect the integrity and function of ecological systems and working landscapes, and provide multiple benefits, including preservation of fish and wildlife habitat, recreation space for urban and rural areas, and the restoration of natural water storage, flow, and recharge.

10. The state has embraced performance-based program budgeting as a tool to evaluate the achievements of publicly funded agencies, build in accountability, and reward those agencies which are able to consistently achieve quantifiable goals. While previous and existing state environmental programs have achieved varying degrees of success, few of these programs can be evaluated as to the extent of their achievements, primarily because performance measures, standards, outcomes, and goals were not established at the outset. Therefore, the Florida Forever program shall be developed and implemented in the context of measurable state goals and objectives.

11. The state must play a major role in the recovery and management of its imperiled species through the acquisition, restoration, enhancement, and management of ecosystems that can support the major life functions of such species. It is the intent of the Legislature to support local, state, and federal programs that result in net benefit to imperiled species habitat by providing public and private land owners meaningful incentives for acquiring, restoring, managing, and repopulating habitats for imperiled species. It is the further intent of the Legislature that public lands, both existing and to be acquired, identified by the lead land managing agency, in consultation with the Florida Fish and Wildlife Conservation Commission for animals or the Department of Agriculture and Consumer Services for plants, as habitat or potentially restorable habitat for imperiled species, be restored, enhanced, managed, and repopulated as habitat for such species to advance the goals and objectives of imperiled species management consistent with the purposes for which such lands are acquired without restricting other uses identified in the management plan. It is also the intent of the Legislature that of the proceeds distributed pursuant to subsection (3), additional consideration be given to acquisitions that achieve a combination of conservation goals, including the restoration, enhancement, management, or repopulation of habitat for imperiled species. The Acquisition and Restoration Council, in addition to the criteria in subsection (9), shall give weight to projects that include acquisition, restoration, management, or repopulation of habitat for imperiled species. The term "imperiled species" as used in this chapter and chapter 253, means plants and animals that are federally listed under the Endangered Species Act, or state-listed by the Fish and Wildlife Conservation Commission or the Department of Agriculture and Consumer Services.

a. As part of the state's role, all state lands that have imperiled species habitat shall include as a consideration in management plan development the restoration, enhancement, management, and repopulation of such habitats. In addition, the lead land managing agency of such state lands may use fees received from public or private entities for projects to offset adverse impacts to imperiled species or their habitat in order to restore, enhance, manage, repopulate, or acquire land and to implement land management plans developed under s. 253.034 or a land management prospectus developed and implemented under this chapter. Such fees shall be deposited into a foundation or fund created by each land management agency under s. 379.223 ~~372.0215~~, s. 589.012, or s. 259.032(11)(d), to be used solely to restore, manage, enhance, repopulate, or acquire imperiled species habitat.

b. Where habitat or potentially restorable habitat for imperiled species is located on state lands, the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services shall be included on any advisory group required under chapter 253, and the short-term and long-term management goals required under chapter 253 must advance the goals and objectives of imperiled species management consistent with the purposes for which the land was acquired without restricting other uses identified in the management plan.

12. There is a need to change the focus and direction of the state's major land acquisition programs and to extend funding and bonding capabilities, so that future generations may enjoy the natural resources of this state.

Reviser's note.—Amended to conform to the redesignation of s. 372.0215 as s. 379.223 by s. 32, ch. 2008-247, Laws of Florida.

Section 23. Paragraph (d) of subsection (9) of section 259.1053, Florida Statutes, is amended to read:

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

(9) POWERS AND DUTIES.—

(d) The members may, with the written approval of the commission and in consultation with the department, designate hunting, fishing, and trapping zones and may establish additional periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, and the protection and enhancement of nongame habitat and nongame species, as defined under s. 379.101 ~~372.001~~.

Reviser's note.—Amended to conform to the repeal of s. 372.001 by s. 208, ch. 2008-247, Laws of Florida. The word "nongame" is now defined at s. 379.101.

Section 24. Subsection (1), paragraph (e) of subsection (2), and paragraph (b) of subsection (3) of section 282.201, Florida Statutes, are amended to read:

282.201 State data center system; agency duties and limitations.—A state data center system that includes all primary data centers, other nonprimary data centers, and computing facilities, and that provides an enterprise information technology service as defined in s. 282.0041, is established.

(1) INTENT.—The Legislature finds that the most efficient and effective means of providing quality utility data processing services to state agencies requires that computing resources be concentrated in quality facilities that provide the proper security, infrastructure, and staff resources to ensure that the state's data is maintained reliably and~~,~~ safely, and is recoverable in the event of a disaster. Efficiencies resulting from such consolidation include the increased ability to leverage technological expertise and~~,~~ hardware and software capabilities; increased savings through consolidated purchasing decisions; and the enhanced ability to deploy technology improvements and implement new policies consistently throughout the consolidated organization. Therefore it is the intent of the Legislature that agency data centers and computing facilities be consolidated into primary data centers to the maximum extent possible by 2019.

(2) AGENCY FOR ENTERPRISE INFORMATION TECHNOLOGY DUTIES.—The Agency for Enterprise Information Technology shall:

(e) Develop and establish policies by rule relating to the operation of the state data center system which must comply with applicable federal regulations, including 2 C.F.R. part 225 and 45 C.F.R. The policies may address:

1. Ensuring that financial information is captured and reported consistently and accurately.

2. Requiring the establishment of service-level agreements executed between a data center and its customer entities for services provided.

3. Requiring annual full cost recovery on an equitable rational basis. The cost-recovery methodology must ensure that no service is subsidizing another service and may include adjusting the subsequent year's rates as a means to recover deficits or refund surpluses from a prior year.

4. Requiring that any special assessment imposed to fund expansion is based on a methodology that apportions the assessment according to the proportional benefit to each customer entity.

5. Requiring that rebates be given when revenues have exceeded costs, that rebates be applied to offset charges to those customer entities that have subsidized the costs of other customer entities, and that such rebates may be in the form of credits against future billings.

6. Requiring that all service-level agreements have a contract term of up to 3 years, but may include an option to renew for up to 3 additional years contingent on approval by the board, and require at least a 180-day notice of termination.

7. Designating any nonstate data centers as primary data centers if the center:

a. Has an established governance structure that represents customer entities proportionally.

b. Maintains an appropriate cost-allocation methodology that accurately bills a customer entity based on the actual direct and indirect costs to the customer entity and prohibits the subsidization of one customer entity's costs by another entity.

c. Has sufficient raised floor space, cooling, and redundant power capacity, including uninterruptible power supply and backup power generation, to accommodate the computer processing platforms and support necessary to host the computing requirements of additional customer entities.

(3) STATE AGENCY DUTIES.—

(b) Each state agency shall submit to the Agency for Enterprise Information Technology information relating to its data centers and computing facilities as required in instructions issued by July 1 of each year by the Agency for Enterprise Information Technology. The information required may include:

1. ~~The~~ Amount of floor space used and available.

2. ~~The~~ Numbers and capacities of mainframes and servers.

3. Storage and network capacity.

4. Amount of power used and the available capacity.

5. Estimated expenditures by service area, including hardware and software, numbers of full-time equivalent positions, personnel turnover, and position reclassifications.

6. A list of contracts in effect for the fiscal year, including, but not limited to, contracts for hardware, software and maintenance, including the expiration date, the contract parties, and the cost of the contract.

7. Service-level agreements by customer entity.

Reviser's note.—Amended to improve sentence construction.

Section 25. Paragraph (d) of subsection (4) of section 288.1089, Florida Statutes, is amended to read:

288.1089 Innovation Incentive Program.—

(4) To qualify for review by the office, the applicant must, at a minimum, establish the following to the satisfaction of Enterprise Florida, Inc., and the office:

(d) For an alternative and renewable energy project in this state, the project must:

1. Demonstrate a plan for significant collaboration with an institution of higher education;

2. Provide the state, at a minimum, a break-even return on investment within a 20-year period;

3. Include matching funds provided by the applicant or other available sources. This requirement may be waived if the office and the department determine that the merits of the individual project or the specific circumstances warrant such action;

4. Be located in this state;

5. Provide jobs that pay an estimated annual average wage that equals at least 130 percent of the average private sector wage. The average wage requirement may be waived if the office and the commission determine that the merits of the individual project or the specific circumstances warrant such action; and

6. Meet one of the following criteria:

a. Result in the creation of at least 35 direct, new jobs at the business.

b. Have an activity or product that uses feedstock or other raw materials grown or produced in this state.

c. Have a cumulative investment of at least $50 million within a 5-year period.

d. Address the technical feasibility of the technology, and the extent to which the proposed project has been demonstrated to be technically feasible based on pilot project demonstrations, laboratory testing, scientific modeling, or engineering or chemical theory that supports the proposal.

e. Include innovative technology and the degree to which the project or business incorporates an innovative new technology or an innovative application of an existing technology.

f. Include production potential and the degree to which a project or business generates thermal, mechanical, or electrical energy by means of a renewable energy resource that has substantial long-term production potential. The project must, to the extent possible, quantify annual production potential in megawatts or kilowatts.

g. Include and address energy efficiency and the degree to which a project demonstrates efficient use of energy, water, and material resources.

h. Include project management and the ability of management to administer and ~~a~~ complete the business project.

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

Section 26. Paragraphs (c), (d), (f), (h), and (k) 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:

(c) Florida Caribbean Institute (Florida International University and Daytona Beach ~~Community~~ College).

(d) Florida-Canada Institute (University of Central Florida and Palm Beach Community ~~Junior~~ College).

(f) Florida-Japan Institute (University of South Florida, University of West Florida, and St. Petersburg ~~Community~~ College).

(h) Florida-Israel Institute (Florida Atlantic University and Broward ~~Community~~ College).

(k) Florida-Mexico Institute (Florida International University and Polk ~~Community~~ College).

Reviser's note.—Paragraph (5)(c) is amended to confirm the deletion of the word "Community" by the editors to conform to the renaming of Daytona Beach Community College as Daytona Beach College by s. 1, ch. 2008-52, Laws of Florida, and s. 5, ch. 2008-163, Laws of Florida. Paragraph (5)(d) is amended to substitute the word "Community" for the word "Junior" to conform to the renaming of Palm Beach Junior College as Palm Beach Community College by s. 64, ch. 89-381, Laws of Florida. Paragraph (5)(f)

is amended to conform to the present name of St. Petersburg College, as listed in s. 1000.21, created by s. 10, ch. 2002-387, Laws of Florida. Paragraphs (5)(h) and (k) are amended to delete the word "Community" from the names of Broward College and Polk College, respectively, pursuant to the name changes in s. 1, ch. 2008-52.

Section 27. Subsection (2) of section 316.2128, Florida Statutes, is amended to read:

316.2128 Operation of motorized scooters and miniature motorcycles; requirements for sales.—

(2) Any person selling or offering a motorized scooter or a miniature motorcycle for sale in violation of this section ~~subsection~~ commits an unfair and deceptive trade practice as defined in part II of chapter 501.

Reviser's note.—Amended to conform to context; the actions, violation of which constitute an unfair and deceptive trade practice, are described in subsection (1), and the section only has two subsections.

Section 28. Subsection (4) of section 316.650, Florida Statutes, is amended to read:

316.650 Traffic citations.—

(4) The chief administrative officer of every traffic enforcement agency shall require the return to him or her of the officer-agency copy of every traffic citation issued by an officer under the chief administrative officer's supervision to an alleged violator of any traffic law or ordinance and all copies of every traffic citation that has been spoiled or upon which any entry has been made and not issued to an alleged violator. In the case of a traffic enforcement agency that has an automated citation issuance system, the chief administrative officer shall require the return of all electronic traffic citation records.

Reviser's note.—Amended to improve clarity.

Section 29. Subsection (12) of section 319.001, Florida Statutes, is amended to read:

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

(12) "Used motor vehicle" means any motor vehicle that is not a "new motor vehicle" as defined in subsection (9) ~~(8)~~.

Reviser's note.—Amended to conform to the redesignation of subsection (8) as subsection (9) by s. 15, ch. 2008-176, Laws of Florida.

Section 30. Paragraph (b) of subsection (62) and paragraph (b) of subsection (65) of section 320.08058, Florida Statutes, are amended to read:

320.08058 Specialty license plates.—

(62) PROTECT FLORIDA SPRINGS LICENSE PLATES.—

(b) The annual use fees shall be distributed to the Wildlife Foundation of Florida, Inc., a citizen support organization created pursuant to s. 379.223 ~~372.0215~~, which shall administer the fees as follows:

1. Wildlife Foundation of Florida, Inc., shall retain the first $60,000 of the annual use fees as direct reimbursement for administrative costs, start-up costs, and costs incurred in the development and approval process.

2. Thereafter, a maximum of 10 percent of the fees may be used for administrative costs directly associated with education programs, conservation, springs research, and grant administration of the foundation. A maximum of 15 percent of the fees may be used for continuing promotion and marketing of the license plate.

3. At least 55 percent of the fees shall be available for competitive grants for targeted community-based springs research not currently available for state funding. The remaining 20 percent shall be directed toward community outreach programs aimed at implementing such research findings. The competitive grants shall be administered and approved by the board of directors of the Wildlife Foundation of Florida. The granting advisory committee shall be composed of nine members, including one representative from the Fish and Wildlife Conservation Commission, one representative from the Department of Environmental Protection, one representative from the Department of Health, one representative from the Department of Community Affairs, three citizen representatives, and two representatives from nonprofit stakeholder groups.

4. The remaining funds shall be distributed with the approval of and accountability to the board of directors of the Wildlife Foundation of Florida, and shall be used to support activities contributing to education, outreach, and springs conservation.

(65) FLORIDA TENNIS LICENSE PLATES.—

(b) The department shall distribute the annual use fees to the Florida Sports Foundation, a direct-support organization of the Office of Tourism, Trade, and Economic Development. The license plate annual use fees shall be annually allocated as follows:

1. Up to 5 percent of the proceeds from the annual use fees may be used by the Florida Sports Foundation to administer the license plate program.

2. The United States Tennis Association Florida Section Foundation shall receive the first $60,000 in proceeds from the annual use fees to reimburse it for startup costs, administrative costs, and other costs it incurs in the development and approval process.

3. Up to 5 percent of the proceeds from the annual use fees may be used for promoting and marketing the license plates. The remaining proceeds shall be available for grants by the United States Tennis Association Florida Section Foundation to nonprofit organizations to operate youth tennis programs and adaptive tennis programs for special populations of all ages, and for building, renovating, and maintaining public tennis courts.

Reviser's note.—Paragraph (62)(b) is amended to conform to the redesignation of s. 372.0215 as s. 379.223 by s. 32, ch. 2008-247, Laws of Florida. Paragraph (65)(b) is amended to conform to the complete name of the United State Tennis Association Florida Section Foundation as used elsewhere in subsection (65).

Section 31. Paragraph (b) 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:

(b) The officer has probable cause to believe the vehicle should be seized and forfeited under chapter 379 ~~370 or chapter 372~~;

Reviser's note.—Amended to conform to the transfer of the material in chapters 370 and 372 to new chapter 379 by ch. 2008-247, Laws of Florida.

Section 32. Subsection (1) of section 336.41, Florida Statutes, is amended to read:

336.41 Counties; employing labor and providing road equipment; accounting; when competitive bidding required.—

(1) The commissioners may employ labor and provide equipment as may be necessary, except as provided in subsection (4) ~~(3)~~, for constructing and opening of new roads or bridges and repair and maintenance of any existing roads and bridges.

Reviser's note.—Amended to conform to the redesignation of subsection (3) as subsection (4) by s. 25, ch. 2008-191, Laws of Florida.

Section 33. Subsection (1) of section 336.44, Florida Statutes, is amended to read:

336.44 Counties; contracts for construction of roads; procedure; contractor's bond.—

(1) The commissioners shall let the work on roads out on contract, in accordance with s. 336.41(4) ~~336.41(3)~~.

Reviser's note.—Amended to conform to the redesignation of s. 336.41(3) as s. 336.41(4) by s. 25, ch. 2008-191, Laws of Florida.

Section 34. Subsection (2) of section 364.051, Florida Statutes, is amended to read:

364.051 Price regulation.—

(2) BASIC LOCAL TELECOMMUNICATIONS SERVICE.—~~Price regulation of basic local telecommunications service shall consist of the following:~~

~~(a) Effective January 1, 1996, the rates for basic local telecommunications service of each company subject to this section shall be capped at the rates in effect on July 1, 1995, and such rates shall not be increased prior to January 1, 2000. However, the basic local telecommunications service rates of a local exchange telecommunications company with more than 3 million basic local telecommunications service access lines in service on July 1, 1995, shall not be increased prior to January 1, 2001.~~

~~(b) Upon the date of filing its election with the commission, the rates for basic local telecommunications service of a company that elects to become subject to this section shall be capped at the rates in effect on that date and shall remain capped as stated in paragraph (a).~~

~~(c)~~ There shall be a flat-rate pricing option for basic local telecommunications services, and mandatory measured service for basic local telecommunications services shall not be imposed.

Reviser's note.—Amended to delete obsolete language establishing a rate cap effective prior to January 1, 2000, or January 1, 2001, the end date for the cap depending on a company's number of basic local telecommunications service access lines as of July 1, 1995.

Section 35. Subsection (5) of section 373.118, Florida Statutes, is amended to read:

373.118 General permits; delegation.—

(5) The department shall adopt by rule one or more general permits for local governments to construct, operate, and maintain public marina facilities, public mooring fields, public boat ramps, including associated courtesy docks, and associated parking facilities located in uplands. Such general permits adopted by rule shall include provisions to ensure compliance with part IV of this chapter, subsection (1), and the criteria necessary to include the general permits in a state programmatic general permit issued by the United States Army Corps of Engineers under s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq. A facility authorized under such general permits is exempt from review as a development of regional impact if the facility complies with the comprehensive plan of the applicable local government. Such facilities shall be consistent with the local government manatee protection plan required pursuant to chapter 379 ~~370~~ and shall obtain Clean Marina Program status prior to opening for operation and maintain that status for the life of the facility. Marinas and mooring fields authorized under any such general permit shall not exceed an area of 50,000 square feet over wetlands and other surface waters. All facilities permitted under this section shall be constructed, maintained, and operated in perpetuity for the exclusive use of the general public. The department shall initiate the rulemaking process within 60 days after the effective date of this act.

Reviser's note.—Amended to conform to the transfer of material in former chapter 370 to chapter 379 by ch. 2008-247, Laws of Florida.

Section 36. Paragraphs (a) and (e) of subsection (3) of section 373.4145, Florida Statutes, are amended to read:

373.4145 Part IV permitting program within the geographical jurisdiction of the Northwest Florida Water Management District.—

(3) The rules adopted under subsection (1), as applicable, shall:

(a) Incorporate the exemptions in ss. 373.406 and 403.813(1) ~~403.813(2)~~.

(e) Provide an exemption for the repair, stabilization, or paving of county-maintained roads existing on or before January 1, 2002, and the repair or replacement of bridges that are part of the roadway consistent with the provisions of s. 403.813(1)(t) ~~403.813(2)(t)~~, notwithstanding the provisions of s. 403.813(1)(t)7. ~~403.813(2)(t)7.~~ requiring adoption of a general permit applicable within the Northwest Florida Water Management District and the repeal of such exemption upon the adoption of a general permit.

Reviser's note.—Amended to conform to the redesignation of s. 403.813(2) as s. 403.813(1) by s. 4, ch. 2008-40, Laws of Florida.

Section 37. Section 374.977, Florida Statutes, is amended to read:

374.977 Inland navigation districts; manatee protection speed zones, responsibility for sign posting.—The Fish and Wildlife Conservation Commission shall assume the responsibility for posting and maintaining regulatory markers for manatee protection speed zones as posted by the inland navigation districts pursuant to a rule adopted by the commission under s. 379.2431(2) ~~370.12(2)~~. The Fish and Wildlife Conservation Commission may apply to inland navigation districts for funding under s. 374.976 to assist with implementing its responsibility under this section for maintaining regulatory markers for manatee protection speed zones.

Reviser's note.—Amended to conform to the redesignation of s. 370.12 as s. 379.2431 by s. 73, ch. 2008-247, Laws of Florida.

Section 38. Subsection (1) of section 378.021, Florida Statutes, is amended to read:

378.021 Master reclamation plan.—

(1) The Department of Environmental Protection shall amend the master reclamation plan that provides guidelines for the reclamation of lands mined or disturbed by the severance of phosphate rock prior to July 1, 1975, which lands are not subject to mandatory reclamation under part II of chapter 211. In amending the master reclamation plan, the Department of Environmental Protection shall continue to conduct an onsite evaluation of all lands mined or disturbed by the severance of phosphate rock prior to July 1, 1975, which lands are not subject to mandatory reclamation under part II of chapter 211~~, and shall consider the report and plan prepared by the Land Use Advisory Committee under s. 378.011 and submitted to the former Department of Natural Resources for adoption by rule on or before July 1, 1979~~. The master reclamation plan when amended by the Department of

Environmental Protection shall be consistent with local government plans prepared pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act.

Reviser's note.—Amended to conform to the repeal of s. 378.011, which created the Land Use Advisory Committee, by s. 24, ch. 2008-150, Laws of Florida.

Section 39. Subsection (19) of section 378.403, Florida Statutes, is amended to read:

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

(19) "Wetlands" means any area as defined in s. 373.019, as delineated using the methodology adopted by rule and ratified pursuant to s. 373.421(1). For areas included in an approved conceptual reclamation plan or modification application submitted prior to July 1, 1994, wetlands means any area having dominant vegetation as defined and listed in rule 62-301.200 ~~67-301.200~~, Florida Administrative Code, regardless of whether the area is within the department's jurisdiction or whether the water bodies are connected.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. Rule 67-301.200 does not exist; rule 62-301.200 relates to dominant vegetation.

Section 40. Subsection (1) of section 379.2495, Florida Statutes, is amended to read:

379.2495 Florida Ships-2-Reefs Program; matching grant requirements.—

(1) The commission is authorized to establish the Florida Ships-2-Reefs Program, a matching grant program, for the securing and placement of United States Maritime Administration (MARAD) and United States Navy decommissioned vessels in state or federal waters seaward of the state to serve as artificial reefs and, pursuant thereto, to make expenditures and enter into contracts with local governments and nonprofit corporations for the purpose of securing and placing MARAD and United States Navy decommissioned vessels as artificial reefs in state or federal waters seaward of the state pursuant to s. 379.249(8) ~~370.25(8)~~ and performing the environmental preparation and cleaning requisite to the placement of a vessel as an artificial reef, which preparation and cleaning must meet the standards established in the 2006 publication, "National Guidance: Best Management Practices for Preparing Vessels Intended to Create Artificial Reefs," published jointly by the United States Environmental Protection Agency and the United States Maritime Administration. The commission shall have final approval of grants awarded through the program.

Reviser's note.—Amended to conform to the redesignation of s. 370.25 as s. 379.249 by s. 81, ch. 2008-247, Laws of Florida.

Section 41. Paragraph (q) of subsection (2) of section 379.353, Florida Statutes, is amended to read:

379.353 Recreational licenses and permits; exemptions from fees and requirements.—

(2) A hunting, freshwater fishing, or saltwater fishing license or permit is not required for:

(q) Any resident recreationally freshwater fishing who holds a valid commercial fishing license issued under s. 379.363(1)(a) ~~379.3625(1)(a)~~.

Reviser's note.—Amended to correct an apparent error and facilitate correct interpretation. Prior to the amendment to paragraph (2)(q) by s. 138, ch. 2008-247, Laws of Florida, the cross-reference was to s. 372.65(1)(a), relating to resident commercial fishing licenses. Section 372.65 was redesignated as s. 379.363 by s. 148, ch. 2008-247.

Section 42. Subsection (8) of section 379.407, Florida Statutes, is amended to read:

379.407 Administration; rules, publications, records; penalties; injunctions.—

(8) LICENSES AND ENTITIES SUBJECT TO PENALTIES.—For purposes of imposing license or permit suspensions or revocations authorized by this chapter, the license or permit under which the violation was committed is subject to suspension or revocation by the commission. For purposes of assessing monetary civil or administrative penalties authorized by this chapter, the commercial harvester cited and subsequently receiving a judicial disposition of other than dismissal or acquittal in a court of law is subject to the monetary penalty assessment by the commission. However, if the licensee ~~license~~ or permitholder of record is not the commercial harvester receiving the citation and judicial disposition, the license or permit may be suspended or revoked only after the licensee ~~license~~ or permitholder has been notified by the commission that the license or permit has been cited in a major violation and is now subject to suspension or revocation should the license or permit be cited for subsequent major violations.

Reviser's note.—Amended to improve clarity and facilitate correct interpretation.

Section 43. Paragraph (a) of subsection (3) of section 380.061, Florida Statutes, is amended to read:

380.061 The Florida Quality Developments program.—

(3)(a) To be eligible for designation under this program, the developer shall comply with each of the following requirements which is applicable to the site of a qualified development:

1. Have donated or entered into a binding commitment to donate the fee or a lesser interest sufficient to protect, in perpetuity, the natural attributes of the types of land listed below. In lieu of the above requirement, the developer may enter into a binding commitment which runs with the land to set aside such areas on the property, in perpetuity, as open space to be

retained in a natural condition or as otherwise permitted under this subparagraph. Under the requirements of this subparagraph, the developer may reserve the right to use such areas for the purpose of passive recreation that is consistent with the purposes for which the land was preserved.

a. Those wetlands and water bodies throughout the state as would be delineated if the provisions of s. 373.4145(1)(b) were applied. The developer may use such areas for the purpose of site access, provided other routes of access are unavailable or impracticable; may use such areas for the purpose of stormwater or domestic sewage management and other necessary utilities to the extent that such uses are permitted pursuant to chapter 403; or may redesign or alter wetlands and water bodies within the jurisdiction of the Department of Environmental Protection which have been artificially created, if the redesign or alteration is done so as to produce a more naturally functioning system.

b. Active beach or primary and, where appropriate, secondary dunes, to maintain the integrity of the dune system and adequate public accessways to the beach. However, the developer may retain the right to construct and maintain elevated walkways over the dunes to provide access to the beach.

c. Known archaeological sites determined to be of significance by the Division of Historical Resources of the Department of State.

d. Areas known to be important to animal species designated as endangered or threatened animal species by the United States Fish and Wildlife Service or by the Fish and Wildlife Conservation Commission, for reproduction, feeding, or nesting; for traveling between such areas used for reproduction, feeding, or nesting; or for escape from predation.

e. Areas known to contain plant species designated as endangered plant species by the Department of Agriculture and Consumer Services.

2. Produce, or dispose of, no substances designated as hazardous or toxic substances by the United States Environmental Protection Agency or by the Department of Environmental Protection or the Department of Agriculture and Consumer Services. This subparagraph is not intended to apply to the production of these substances in nonsignificant amounts as would occur through household use or incidental use by businesses.

3. Participate in a downtown reuse or redevelopment program to improve and rehabilitate a declining downtown area.

4. Incorporate no dredge and fill activities in, and no stormwater discharge into, waters designated as Class II, aquatic preserves, or Outstanding Florida Waters, except as activities in those waters are permitted pursuant to s. 403.813(1) ~~403.813(2)~~ and the developer demonstrates that those activities meet the standards under Class II waters, Outstanding Florida Waters, or aquatic preserves, as applicable.

5. Include open space, recreation areas, Xeriscape as defined in s. 373.185, and energy conservation and minimize impermeable surfaces as appropriate to the location and type of project.

6. Provide for construction and maintenance of all onsite infrastructure necessary to support the project and enter into a binding commitment with local government to provide an appropriate fair-share contribution toward the offsite impacts which the development will impose on publicly funded facilities and services, except offsite transportation, and condition or phase the commencement of development to ensure that public facilities and services, except offsite transportation, will be available concurrent with the impacts of the development. For the purposes of offsite transportation impacts, the developer shall comply, at a minimum, with the standards of the state land planning agency's development-of-regional-impact transportation rule, the approved strategic regional policy plan, any applicable regional planning council transportation rule, and the approved local government comprehensive plan and land development regulations adopted pursuant to part II of chapter 163.

7. Design and construct the development in a manner that is consistent with the adopted state plan, the applicable strategic regional policy plan, and the applicable adopted local government comprehensive plan.

Reviser's note.—Amended to conform to the redesignation of s. 403.813(2) as s. 403.813(1) by s. 4, ch. 2008-40, Laws of Florida.

Section 44. Paragraph (d) of subsection (3) of section 380.510, Florida Statutes, is amended to read:

380.510 Conditions of grants and loans.—

(3) In the case of a grant or loan for land acquisition, agreements shall provide all of the following:

(d) If any essential term or condition of a grant or loan is violated, title to all interest in real property acquired with state funds shall be conveyed or revert to the Board of Trustees of the Internal Improvement Trust Fund. The trust shall treat such property in accordance with s. 380.508(4)(f) ~~380.508(4)(e)~~.

Any deed or other instrument of conveyance whereby a nonprofit organization or local government acquires real property under this section shall set forth the interest of the state. The trust shall keep at least one copy of any such instrument and shall provide at least one copy to the Board of Trustees of the Internal Improvement Trust Fund.

Reviser's note.—Amended to conform to the redesignation of s. 380.508(4)(e) as s. 380.508(4)(f) by s. 23, ch. 2008-229, Laws of Florida.

Section 45. Section 381.0063, Florida Statutes, is amended to read:

381.0063 Drinking water funds.—All fees and penalties received from suppliers of water pursuant to ss. 403.860(5) and 403.861(7)(a) ~~403.861(8)~~ shall be deposited in the appropriate County Health Department Trust Fund to be used by the department to pay the costs of expenditures required pursuant to ss. 381.0062 and 403.862(1)(c).

Reviser's note.—Amended to conform to the amendment of s. 403.861(7) and (8) by s. 20, ch. 2008-150, Laws of Florida, which moved language that comprised former subsection (8) to paragraph (7)(a).

Section 46. Paragraph (a) of subsection (6) of section 403.087, Florida Statutes, is amended to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(6)(a) The department shall require a processing fee in an amount sufficient, to the greatest extent possible, to cover the costs of reviewing and acting upon any application for a permit or request for site-specific alternative criteria or for an exemption from water quality criteria and to cover the costs of surveillance and other field services and related support activities associated with any permit or plan approval issued pursuant to this chapter. The department shall review the fees authorized under this chapter at least once every 5 years and shall adjust the fees upward, as necessary, within the fee caps established in this paragraph to reflect changes in the Consumer Price Index or similar inflation indicator. The department shall establish by rule the inflation index to be used for this purpose. In the event of deflation, the department shall consult with the Executive Office of the Governor and the Legislature to determine whether downward fee adjustments are appropriate based on the current budget and appropriation considerations. However, when an application is received without the required fee, the department shall acknowledge receipt of the application and shall immediately return the unprocessed application to the applicant and shall take no further action until the application is received with the appropriate fee. The department shall adopt a schedule of fees by rule, subject to the following limitations:

1. The fee for any of the following may not exceed $32,500:

a. Hazardous waste, construction permit.

b. Hazardous waste, operation permit.

c. Hazardous waste, postclosure permit, or clean closure plan approval.

d. Hazardous waste, corrective action permit.

2. The permit fee for a drinking water construction or operation permit, not including the operation license fee required under s. 403.861(7), shall be at least $500 and may not exceed $15,000.

3. The permit fee for a Class I injection well construction permit may not exceed $12,500.

4. The permit fee for any of the following permits may not exceed $10,000:

a. Solid waste, construction permit.

b. Solid waste, operation permit.

c. Class I injection well, operation permit.

5. The permit fee for any of the following permits may not exceed $7,500:

a. Air pollution, construction permit.

b. Solid waste, closure permit.

c. Domestic waste residuals, construction or operation permit.

d. Industrial waste, operation permit.

e. Industrial waste, construction permit.

6. The permit fee for any of the following permits may not exceed $5,000:

a. Domestic waste, operation permit.

b. Domestic waste, construction permit.

7. The permit fee for any of the following permits may not exceed $4,000:

a. Wetlands resource management—(dredge and fill and mangrove alteration).

b. Hazardous waste, research and development permit.

c. Air pollution, operation permit, for sources not subject to s. 403.0872.

d. Class III injection well, construction, operation, or abandonment permits.

8. The permit fee for a drinking water distribution system permit, including a general permit, shall be at least $500 and may not exceed $1,000.

9. The permit fee for Class V injection wells, construction, operation, and abandonment permits may not exceed $750.

10. The permit fee for domestic waste collection system permits may not exceed $500.

11. The permit fee for stormwater operation permits may not exceed $100.

12. Except as provided in subparagraph 8., the general permit fees for permits that require certification by a registered professional engineer or professional geologist may not exceed $500, and the general permit fee for other permit types may not exceed $100.

13. The fee for a permit issued pursuant to s. 403.816 is $5,000, and the fee for any modification of such permit requested by the applicant is $1,000.

14. The regulatory program and surveillance fees for facilities permitted pursuant to s. 403.088 or s. 403.0885, or for facilities permitted pursuant to

s. 402 of the Clean Water Act, as amended, 33 U.S.C. ss. 1251 et seq., and for which the department has been granted administrative authority, shall be limited as follows:

a. The fees for domestic wastewater facilities shall not exceed $7,500 annually. The department shall establish a sliding scale of fees based on the permitted capacity and shall ensure smaller domestic waste dischargers do not bear an inordinate share of costs of the program.

b. The annual fees for industrial waste facilities shall not exceed $11,500. The department shall establish a sliding scale of fees based upon the volume, concentration, or nature of the industrial waste discharge and shall ensure smaller industrial waste dischargers do not bear an inordinate share of costs of the program.

c. The department may establish a fee, not to exceed the amounts in subparagraphs 5. and 6. ~~4. and 5.~~, to cover additional costs of review required for permit modification or construction engineering plans.

Reviser's note.—Amended to conform to the redesignation of subparagraphs (6)(a)4. and 5. as subparagraphs 5. and 6. by s. 19, ch. 2008-150, Laws of Florida.

Section 47. Section 403.0871, Florida Statutes, is amended to read:

403.0871 Florida Permit Fee Trust Fund.—There is established within the department a nonlapsing trust fund to be known as the "Florida Permit Fee Trust Fund." All funds received from applicants for permits pursuant to ss. 161.041, 161.053, 161.0535, 403.087(6), and 403.861(7)(a) ~~403.861(8)~~ shall be deposited in the Florida Permit Fee Trust Fund and shall be used by the department with the advice and consent of the Legislature to supplement appropriations and other funds received by the department for the administration of its responsibilities under this chapter and chapter 161. In no case shall funds from the Florida Permit Fee Trust Fund be used for salary increases without the approval of the Legislature.

Reviser's note.—Amended to conform to the amendment of s. 403.861(7) and (8) by s. 20, ch. 2008-150, Laws of Florida, which moved language that comprised former subsection (8) to paragraph (7)(a).

Section 48. Subsection (3) of section 403.511, Florida Statutes, is amended to read:

403.511 Effect of certification.—

(3) The certification and any order on land use and zoning issued under this act shall be in lieu of any license, permit, certificate, or similar document required by any state, regional, or local agency pursuant to, but not limited to, chapter 125, chapter 161, chapter 163, chapter 166, chapter 186, chapter 253, chapter 298, ~~chapter 370,~~ chapter 373, chapter 376, chapter 379, chapter 380, chapter 381, chapter 387, chapter 403, except for permits issued pursuant to any federally delegated or approved permit program and except as provided in chapter 404 or the Florida Transportation Code, or 33 U.S.C. s. 1341.

Reviser's note.—Amended to conform to the transfer of material in former chapter 370 to chapter 379 by ch. 2008-247, Laws of Florida.

Section 49. Paragraph (a) of subsection (7) of section 403.5115, Florida Statutes, is amended to read:

403.5115 Public notice.—

(7)(a) A good faith effort shall be made by the proponent of an alternate corridor that includes a transmission line, as defined by s. 403.522(22), to provide direct written notice of the filing of an alternate corridor for certification by United States mail or hand delivery ~~of~~ of the filing no later than 30 days after filing of the alternate corridor to all local landowners whose property, as noted in the most recent local government tax records, and residences, are located within one-quarter mile of the proposed boundaries of a transmission line corridor that includes a transmission line as defined by s. 403.522(22).

Reviser's note.—Amended to delete repetitious language and facilitate correct interpretation.

Section 50. Paragraph (a) of subsection (3) of section 403.531, Florida Statutes, is amended to read:

403.531 Effect of certification.—

(3)(a) The certification shall be in lieu of any license, permit, certificate, or similar document required by any state, regional, or local agency under, but not limited to, chapter 125, chapter 161, chapter 163, chapter 166, chapter 186, chapter 253, chapter 258, chapter 298, ~~chapter 370, chapter 372,~~ chapter 373, chapter 376, chapter 379, chapter 380, chapter 381, chapter 403, chapter 404, the Florida Transportation Code, or 33 U.S.C. s. 1341.

Reviser's note.—Amended to conform to the transfer of material in former chapters 370 and 372 to chapter 379 by ch. 2008-247, Laws of Florida.

Section 51. Paragraph (b) of subsection (1) of section 403.7264, Florida Statutes, is amended to read:

403.7264 Amnesty days for purging small quantities of hazardous wastes.—Amnesty days are authorized by the state for the purpose of purging small quantities of hazardous waste, free of charge, from the possession of homeowners, farmers, schools, state agencies, and small businesses. These entities have no appropriate economically feasible mechanism for disposing of their hazardous wastes at the present time. In order to raise public awareness on this issue, provide an educational process, accommodate those entities which have a need to dispose of small quantities of hazardous waste, and preserve the waters of the state, amnesty days shall be carried out in the following manner:

(1)

(b) If a local government has established a local or regional hazardous waste collection center pursuant to s. 403.7265(2) ~~403.7265(3)~~ and such

center is in operation, the department and the local government may enter into a contract whereby the local government shall administer and supervise amnesty days. If a contract is entered into, the department shall provide to the local government, from funds appropriated to the department for amnesty days, an amount of money as determined by the department that is equal to the amount of money that would have been spent by the department to administer and supervise amnesty days in the local government's area. A local government that wishes to administer and supervise amnesty days shall notify the department at least 30 days prior to the beginning of the state fiscal year during which the amnesty days are scheduled to be held in the local government's area.

Reviser's note.—Amended to conform to the redesignation of s. 403.7265(3) as s. 403.7265(2) by s. 26, ch. 2007-184, Laws of Florida.

Section 52. Paragraph (t) of subsection (1) and subsection (2) of section 403.813, Florida Statutes, are amended to read:

403.813 Permits issued at district centers; exceptions.—

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

(t) The repair, stabilization, or paving of existing county maintained roads and the repair or replacement of bridges that are part of the roadway, within the Northwest Florida Water Management District and the Suwannee River Water Management District, provided:

1. The road and associated bridge were in existence and in use as a public road or bridge, and were maintained by the county as a public road or bridge on or before January 1, 2002;

2. The construction activity does not realign the road or expand the number of existing traffic lanes of the existing road; however, the work may include the provision of safety shoulders, clearance of vegetation, and other work reasonably necessary to repair, stabilize, pave, or repave the road, provided that the work is constructed by generally accepted engineering standards;

3. The construction activity does not expand the existing width of an existing vehicular bridge in excess of that reasonably necessary to properly connect the bridge with the road being repaired, stabilized, paved, or repaved to safely accommodate the traffic expected on the road, which may include expanding the width of the bridge to match the existing connected

road. However, no debris from the original bridge shall be allowed to remain in waters of the state, including wetlands;

4. Best management practices for erosion control shall be employed as necessary to prevent water quality violations;

5. Roadside swales or other effective means of stormwater treatment must be incorporated as part of the project;

6. No more dredging or filling of wetlands or water of the state is performed than that which is reasonably necessary to repair, stabilize, pave, or repave the road or to repair or replace the bridge, in accordance with generally accepted engineering standards; and

7. Notice of intent to use the exemption is provided to the department, if the work is to be performed within the Northwest Florida Water Management District, or to the Suwannee River Water Management District, if the work is to be performed within the Suwannee River Water Management District, 30 days prior to performing any work under the exemption.

Within 30 days after this act becomes a law, the department shall initiate rulemaking to adopt a no fee general permit for the repair, stabilization, or paving of existing roads that are maintained by the county and the repair or replacement of bridges that are part of the roadway where such activities do not cause significant adverse impacts to occur individually or cumulatively. The general permit shall apply statewide and, with no additional rulemaking required, apply to qualified projects reviewed by the Suwannee River Water Management District, the St. Johns River Water Management District, the Southwest Florida Water Management District, and the South Florida Water Management District under the division of responsibilities contained in the operating agreements applicable to part IV of chapter 373. Upon adoption, this general permit shall, pursuant to the provisions of subsection (2) ~~(3)~~, supersede and replace the exemption in this paragraph.

(2) The provisions of subsection (1) ~~(2)~~ are superseded by general permits established pursuant to ss. 373.118 and 403.814 which include the same activities. Until such time as general permits are established, or should general permits be suspended or repealed, the exemptions under subsection (1) ~~(2)~~ shall remain or shall be reestablished in full force and effect.

Reviser's note.—Amended to conform to the repeal of former subsection (1) by s. 4, ch. 2008-40, Laws of Florida.

Section 53. Subsection (7) of section 403.862, Florida Statutes, is amended to read:

403.862 Department of Health; public water supply duties and responsibilities; coordinated budget requests with department.—

(7) Fees and penalties received from suppliers of water pursuant to ss. 403.860(3), (4), and (5) and 403.861(7)(a) ~~403.861(8)~~ in counties where county health departments have been approved by the department pursuant to paragraph (1)(c) shall be deposited in the appropriate County Health

Department Trust Fund to be used for the purposes stated in paragraph (1)(c).

Reviser's note.—Amended to conform to the amendment of s. 403.861(7) and (8) by s. 20, ch. 2008-150, Laws of Florida, which moved language that comprised former subsection (8) to paragraph (7)(a).

Section 54. Subsection (2) of section 403.890, Florida Statutes, is amended to read:

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

(2) Applicable beginning in the 2007-2008 fiscal year, revenues transferred from the Department of Revenue pursuant to s. 201.15(1)(c)2. ~~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.

Reviser's note.—Amended to conform to the redesignation of s. 201.15(1)(d)2. as s. 201.15(1)(c)2. by s. 3, ch 2008-114, Laws of Florida.

Section 55. Subsection (3) of section 403.9416, Florida Statutes, is amended to read:

403.9416 Effect of certification.—

(3) The certification shall be in lieu of any license, permit, certificate, or similar document required by any agency pursuant to, but not limited to, chapter 125, chapter 161, chapter 163, chapter 166, chapter 186, chapter 253, chapter 258, chapter 298, ~~chapter 370, chapter 372,~~ chapter 373, chapter 376, chapter 377, chapter 379, chapter 380, chapter 381, chapter 387, chapter 403, the Florida Transportation Code, or 33 U.S.C. s. 1341. On certification, any license, easement, or other interest in state lands, except those the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund or a water management district created pursuant to chapter 373, shall be issued by the appropriate agency as a ministerial act. The applicant shall be required to seek any necessary interest in state lands the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund from the board of trustees or from the governing board of the water management district before, during, or after the certification proceeding, and certification may be made contingent upon issuance of the appropriate interest in realty. However, neither the applicant nor any party to the certification proceeding may directly or indirectly raise or relitigate any matter which was or could have been an issue in the certification proceeding in any proceeding before the Board of Trustees of the Internal Improvement Trust Fund wherein the applicant is seeking a necessary interest in state lands, but the information presented in the certification proceeding shall be available for review by the board of trustees and its staff.

Reviser's note.—Amended to conform to the transfer of material in former chapters 370 and 372 to chapter 379 by ch. 2008-247, Laws of Florida.

Section 56. Subsection (1) of section 409.2563, Florida Statutes, is reenacted, and paragraph (b) of subsection (2) of that section is amended to read:

409.2563 Administrative establishment of child support obligations.—

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

(a) "Administrative support order" means a final order rendered by or on behalf of the department pursuant to this section establishing or modifying

the obligation of a parent to contribute to the support and maintenance of his or her child or children, which may include provisions for monetary support, retroactive support, health care, and other elements of support pursuant to chapter 61.

(b) "Caretaker relative" has the same meaning ascribed in s. 414.0252(11).

(c) "Filed" means a document has been received and accepted for filing at the offices of the department by the clerk or any authorized deputy clerk of the department. The date of filing must be indicated on the face of the document by the clerk or deputy clerk.

(d) "Financial affidavit" means an affidavit or written declaration as provided by s. 92.525(2) which shows an individual's income, allowable deductions, net income, and other information needed to calculate the child support guideline amount under s. 61.30.

(e) "Rendered" means that a signed written order is filed with the clerk or any deputy clerk of the department and served on the respondent. The date of filing must be indicated on the face of the order at the time of rendition.

(f) "Title IV-D case" means a case or proceeding in which the department is providing child support services within the scope of Title IV-D of the Social Security Act, 42 U.S.C. ss. 651 et seq.

(g) "Retroactive support" means a child support obligation established pursuant to s. 61.30(17).

Other terms used in this section have the meanings ascribed in ss. 61.046 and 409.2554.

(2) PURPOSE AND SCOPE.—

(b) The administrative procedure set forth in this section concerns only the establishment of child support obligations. This section does not grant jurisdiction to the department or the Division of Administrative Hearings to hear or determine issues of dissolution of marriage, separation, alimony or spousal support, termination of parental rights, dependency, disputed paternity, except for a determination of paternity as provided in s. 409.256, or award of or change of time-sharing. This paragraph notwithstanding, the department and the Division of Administrative Hearings may make findings of fact that are necessary for a proper determination of a parent's support obligation as authorized by this section.

Reviser's note.—Section 21, ch. 2008-61, Laws of Florida, amended paragraph (1)(a) without publishing the flush left language at the end of the subsection. Absent affirmative evidence of legislative intent to repeal it, subsection (1) is reenacted to confirm that the omission was not intended. Paragraph (2)(b) is amended to confirm the editorial insertion of the word "or" to improve clarity and correct sentence construction.

Section 57. Paragraph (e) of subsection (4) of section 409.2598, Florida Statutes, is amended to read:

409.2598 License suspension proceeding to enforce support order.—

(4) COMPLIANCE; REINSTATEMENT.—

(e) Notwithstanding any other statutory provision, a notice from the court or the department shall reinstate to the obligor all licenses established in chapter 379 ~~chapters 370 and 372~~ that were valid at the time of suspension.

Reviser's note.—Amended to conform to the transfer of material in former chapters 370 and 372 to chapter 379 by ch. 2008-247, Laws of Florida.

Section 58. Paragraph (b) of subsection (2) of section 468.432, Florida Statutes, is amended to read:

468.432 Licensure of community association managers and community association management firms; exceptions.—

(2) As of January 1, 2009, a community association management firm or other similar organization responsible for the management of more than 10 units or a budget of $100,000 or greater shall not engage or hold itself out to the public as being able to engage in the business of community association management in this state unless it is licensed by the department as a community association management firm in accordance with the provisions of this part.

(b) Each applicant shall designate on its application a licensed community association manager who shall be required to respond to all inquiries ~~inquires~~ from and investigations by the department or division.

Reviser's note.—Amended to confirm the editorial substitution of the word "inquiries" for the word "inquires" to correct an apparent error.

Section 59. Paragraph (a) of subsection (6) of section 489.145, Florida Statutes, is amended to read:

489.145 Guaranteed energy, water, and wastewater performance savings contracting.—

(6) PROGRAM ADMINISTRATION AND CONTRACT REVIEW.—The Department of Management Services, with the assistance of the Office of the Chief Financial Officer, shall, within available resources, provide technical content assistance to state agencies contracting for energy, water, and wastewater efficiency and conservation measures and engage in other activities considered appropriate by the department for promoting and facilitating guaranteed energy, water, and wastewater performance contracting by state agencies. The Department of Management Services shall review the investment-grade audit for each proposed project and certify that the cost savings are appropriate and sufficient for the term of the contract. The Office of the Chief Financial Officer, with the assistance of the Department of Management Services, shall, within available resources, develop model

contractual and related documents for use by state agencies. Prior to entering into a guaranteed energy, water, and wastewater performance savings contract, any contract or lease for third-party financing, or any combination of such contracts, a state agency shall submit such proposed contract or lease to the Office of the Chief Financial Officer for review and approval. A proposed contract or lease shall include:

(a) Supporting information required by s. 216.023(4)(a)9. in ss. 287.063(5) and 287.064(11). For contracts approved under this section, the criteria may, at ~~add~~ a minimum, include the specification of a benchmark cost of capital and minimum real rate of return on energy, water, or wastewater savings against which proposals shall be evaluated.

The Office of the Chief Financial Officer shall not approve any contract submitted under this section from a state agency that does not meet the requirements of this section.

Reviser's note.—Amended to confirm the editorial substitution of the word "at" for the word "add" to correct an apparent error.

Section 60. Subsection (42) of section 499.003, Florida Statutes, is amended to read:

499.003 Definitions of terms used in this part.—As used in this part, the term:

(42) "Prescription drug" means a prescription, medicinal, or legend drug, including, but not limited to, finished dosage forms or active ingredients subject to, defined by, or described by s. 503(b) of the Federal Food, Drug, and Cosmetic Act or s. 465.003(8), s. 499.007(13), or subsection (11), subsection (45) ~~(47)~~, or subsection (52) ~~(54)~~.

Reviser's note.—Amended to confirm the editorial substitution of references to subsections (45) and (52) for references to subsections (47) and (54). Section 2, ch. 2008-207, Laws of Florida, amended s. 499.003, but the amendment contained coding errors relating to subunit numbering.

Section 61. Paragraph (n) of subsection (10) of section 499.012, Florida Statutes, is amended to read:

499.012 Permit application requirements.—

(10) The department may deny an application for a permit or refuse to renew a permit for a prescription drug wholesale distributor or an out-of-state prescription drug wholesale distributor if:

(n) The applicant or any affiliated party receives, directly or indirectly, financial support and assistance from a person who has been found guilty of any violation of this part or chapter 465, chapter 501, or chapter 893, any rules adopted under ~~any of~~ this part or those chapters, any federal or state drug law, or any felony where the underlying facts related to drugs, regardless of whether the person has been pardoned, had her or his civil rights

restored, or had adjudication withheld, other than through the ownership of stock in a publicly traded company or a mutual fund.

Reviser's note.—Amended to confirm the editorial deletion of the words "any of" following the word "under" to facilitate correct interpretation.

Section 62. Paragraph (d) of subsection (4) of section 499.0121, Florida Statutes, is amended to read:

499.0121 Storage and handling of prescription drugs; recordkeeping.—The department shall adopt rules to implement this section as necessary to protect the public health, safety, and welfare. Such rules shall include, but not be limited to, requirements for the storage and handling of prescription drugs and for the establishment and maintenance of prescription drug distribution records.

(4) EXAMINATION OF MATERIALS AND RECORDS.—

(d) Upon receipt, a wholesale distributor must review records required under this section for the acquisition of prescription drugs for accuracy and completeness, considering the total facts and circumstances surrounding the transactions and the wholesale distributors involved. This includes authenticating each transaction listed on a pedigree paper, as defined in s. 499.003(36) ~~499.003(35)~~.

Reviser's note.—Amended to correct an apparent error and conform to context. Section 2, ch. 2008-207, Laws of Florida, redesignated subunits of s. 499.003. Section 13, ch. 2008-207, amended s. 499.0121(4)(d) to change the reference to s. 499.003(31), which defined "pedigree paper", to s. 499.003(35). The term "pedigree paper" is now defined in s. 499.003(36).

Section 63. Paragraph (a) of subsection (1) of section 499.015, Florida Statutes, is amended to read:

499.015 Registration of drugs, devices, and cosmetics; issuance of certificates of free sale.—

(1)(a) Except for those persons exempted from the definition of manufacturer in s. 499.003(31) ~~499.003(32)~~, any person who manufactures, packages, repackages, labels, or relabels a drug, device, or cosmetic in this state must register such drug, device, or cosmetic biennially with the department; pay a fee in accordance with the fee schedule provided by s. 499.041; and comply with this section. The registrant must list each separate and distinct drug, device, or cosmetic at the time of registration.

Reviser's note.—Amended to correct an apparent error and conform to context. Section 2, ch. 2008-207, Laws of Florida, redesignated subunits of s. 499.003. Section 18, ch. 2008-207, amended s. 499.015(1)(a) to change a reference to s. 499.003(28), which defined "manufacturer," to a reference to s. 499.003(32). The term "manufacturer" is now defined in s. 499.003(31).

Section 64. Subsection (5) of section 500.12, Florida Statutes, is amended to read:

500.12 Food permits; building permits.—

(5) It is the intent of the Legislature to eliminate duplication of regulatory inspections of food. Regulatory and permitting authority over any food establishment is preempted to the department, except as provided in chapter 379 ~~chapters 370 and 372~~.

(a) Food establishments or retail food stores that have ancillary food service activities shall be permitted and inspected by the department.

(b) Food service establishments, as defined in s. 381.0072, that have ancillary, prepackaged retail food sales shall be regulated by the Department of Health.

(c) Public food service establishments, as defined in s. 509.013, which have ancillary, prepackaged retail food sales shall be licensed and inspected by the Department of Business and Professional Regulation.

(d) The department and the Department of Business and Professional Regulation shall cooperate to assure equivalency of inspection and enforcement and to share information on those establishments identified in paragraphs (a) and (c) and to address any other areas of potential duplication. The department and the Department of Business and Professional Regulation are authorized to adopt rules to enforce statutory requirements under their purview regarding foods.

Reviser's note.—Amended to conform to the transfer of chapters 370 and 372 to chapter 379 by ch. 2008-247, Laws of Florida.

Section 65. Subsection (1) of section 553.885, Florida Statutes, is amended to read:

553.885 Carbon monoxide alarm required.—

(1) Every building, other than a hospital, an inpatient hospice facility, or a nursing home facility licensed by the Agency for Health Care Administration, for which a building permit is issued for new construction on or after July 1, 2008, and having a fossil-fuel-burning heater or appliance, a fireplace, or an attached garage shall have an approved operational carbon monoxide alarm installed within 10 feet of each room used for sleeping purposes. For a new hospital, an inpatient hospice facility, or a nursing home facility licensed by the Agency for Health Care Administration, an approved operational carbon monoxide detector shall be installed inside or directly outside of each room or area within the hospital or facility where ~~were~~ a fossil-fuel-burning heater, engine, or appliance is located. This detector shall be connected to the fire alarm system of the hospital or facility as a supervisory signal.

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

Section 66. Section 553.975, Florida Statutes, is amended to read:

553.975 Report to the Governor and Legislature.—The Public Service Commission shall submit a biennial report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, concurrent with the report required by s. 366.82(10) ~~366.82(4)~~, beginning in 1990. Such report shall include an evaluation of the effectiveness of these standards on energy conservation in this state.

Reviser's note.—Amended to conform to the redesignation of s. 366.82(4) as s. 366.82(10) by s. 39, ch. 2008-227, Laws of Florida.

Section 67. Subsection (4) of section 560.111, Florida Statutes, is amended to read:

560.111 Prohibited acts.—

(4) Any person who willfully violates any provision of s. 560.403, s. 560.404, or s. 560.405~~, or s. 560.407~~ commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Reviser's note.—Amended to conform to the repeal of s. 560.407 by s. 55, ch. 2008-177, Laws of Florida.

Section 68. Section 560.124, Florida Statutes, is amended to read:

560.124 Sharing of information.—Any person may provide to a money services business, authorized vendor, law enforcement agency, prosecutorial agency, or appropriate regulator, or any money services business, authorized vendor, law enforcement agency, prosecutorial agency, or appropriate regulator may provide to any person, information about any person's known or suspected involvement in a violation of any state, federal, or foreign law, rule, or regulation relating to the business of a money services business or deferred presentment ~~present~~ provider which has been reported to state, federal, or foreign authorities, and is not liable in any civil action for providing such information.

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

Section 69. Paragraph (a) of subsection (1) of section 560.141, Florida Statutes, is amended to read:

560.141 License application.—

(1) To apply for a license as a money services business under this chapter the applicant must:

(a) Submit an application to the office on forms prescribed by rule which includes the following information:

1. The legal name and address of the applicant, including any fictitious or trade names used by the applicant in the conduct of its business.

2. The date of the applicant's formation and the state in which the applicant was formed, if applicable.

3. The name, social security number, alien identification or taxpayer identification number, business and residence addresses, and employment history for the past 5 years for each officer, director, responsible person, the compliance officer, each controlling shareholder, and any other person who has a controlling interest in the money services business as provided in s. 560.127.

4. A description of the organizational structure of the applicant, including the identity of any parent or subsidiary of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded.

5. The applicant's history of operations in other states if applicable and a description of the money services business or deferred presentment provider activities proposed to be conducted by the applicant in this state.

6. If the applicant or its parent is a publicly traded company, copies of all filings made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, within the preceding year.

7. The location at which the applicant proposes to establish its principal place of business and any other location, including branch offices and authorized vendors operating in this state. For each branch office identified and each authorized vendor appointed, the applicant shall include the nonrefundable fee required by s. 560.143.

8. The name and address of the clearing financial institution or financial institutions through which the applicant's payment instruments are drawn or through which the payment instruments are payable.

9. The history of the applicant's material litigation, criminal convictions, pleas of nolo contendere, and cases of adjudication withheld.

10. The history of material litigation, arrests, criminal convictions, pleas of nolo contendere, and cases of adjudication withheld for each executive officer, director, controlling shareholder, and responsible person.

11. The name of the registered agent in this state for service of process unless the applicant is a sole proprietor.

12. Any other information specified in this chapter or by rule.

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

Section 70. Subsection (4) of section 560.142, Florida Statutes, is amended to read:

560.142 License renewal.—

(4) If a license or declaration of intent to engage in deferred presentment transactions expires, the license or declaration of intent may be reinstated only if a renewal application or declaration of intent, all required renewal

fees, and any applicable late fees are received by the office within 60 days after expiration. If not submitted within 60 days, the license or declaration of ~~on~~ intent expires and a new license application or declaration of intent must be filed with the office pursuant to this chapter.

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

Section 71. Paragraph (a) of subsection (1) of section 560.143, Florida Statutes, is amended to read:

560.143 Fees.—

(1) LICENSE APPLICATION FEES.—The applicable non-refundable fees must accompany an application for licensure:

(a) ~~Under~~ Part II . . . . . $375.

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

Section 72. Subsection (2) of section 560.209, Florida Statutes, is amended to read:

560.209 Net worth; corporate surety bond; collateral deposit in lieu of bond.—

(2) A licensee must obtain an annual financial audit report, which must be submitted to the office within 120 days after the end of the licensee's fiscal year ~~end~~, as disclosed to the office. If the applicant is a wholly owned subsidiary of another corporation, the financial audit report on the parent corporation's financial statements shall satisfy this requirement.

Reviser's note.—Amended to confirm the editorial deletion of the word "end" following the word "year" to improve clarity and facilitate correct interpretation.

Section 73. Subsection (6) of section 560.404, Florida Statutes, is amended to read:

560.404 Requirements for deferred presentment transactions.—

(6) A deferred presentment provider or its affiliate may not charge fees that exceed 10 percent of the currency or payment instrument provided. However, a verification fee may be charged as provided in s. 560.309(8) ~~560.309(7)~~. The 10-percent fee may not be applied to the verification fee. A deferred presentment provider may charge only those fees specifically authorized in this section.

Reviser's note.—Amended to correct an apparent error and conform to context. Section 41, ch. 2008-177, Laws of Florida, redesignated subunits in s. 560.309. Section 45, ch. 2008-177, amended s. 560.404(6) to change a reference to s. 560.309(4), which referenced verification fees, to s. 560.309(7). Verification fees are now referenced in s. 560.309(8).

Section 74. Subsection (2) of section 560.406, Florida Statutes, is amended to read:

560.406 Worthless checks.—

(2) If a check is returned to a deferred presentment provider from a payor financial institution due to insufficient funds, a closed account, or a stop-payment order, the deferred presentment provider may pursue all legally available civil remedies to collect the check, including, but not limited to, the imposition of all charges imposed on the deferred presentment provider by the financial institution. In its collection practices, a deferred presentment provider must comply with the prohibitions against harassment or abuse, false or misleading representations, and unfair practices that are contained in the Fair Debt Collections Practices Act, 15 U.S.C. ss. 1692d, 1692e, and 1692f. A violation of this act is a deceptive and unfair trade practice and constitutes a violation of the Deceptive and Unfair Trade Practices Act under part II of chapter 501. In addition, a deferred presentment provider must comply with the applicable provisions of the Consumer Collection Practices Act under part VI of chapter 559, including s. 559.77.

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

Section 75. Subsection (41) of section 570.07, Florida Statutes, is amended to read:

570.07 Department of Agriculture and Consumer Services; functions, powers, and duties.—The department shall have and exercise the following functions, powers, and duties:

(41) Notwithstanding the provisions of s. 287.057(23) ~~287.057(23)(a)~~ that require all agencies to use the online procurement system developed by the Department of Management Services, the department may continue to use its own online system. However, vendors utilizing such system shall be prequalified as meeting mandatory requirements and qualifications and shall remit fees pursuant to s. 287.057(23), and any rules implementing s. 287.057.

Reviser's note.—Amended to correct a cross-reference. Section 287.057(23)(a) was split by s. 13, ch. 2008-116, Laws of Florida, to form s. 287.057(23) introductory paragraph and (23)(a).

Section 76. Paragraph (g) of subsection (2) of section 597.004, Florida Statutes, is amended to read:

597.004 Aquaculture certificate of registration.—

(2) RULES.—

(g) Any alligator producer with an alligator farming license and permit to establish and operate an alligator farm shall be issued an aquaculture certificate of registration pursuant to this section. This chapter does not supersede the authority under chapter 379 ~~372~~ to regulate alligator farms and alligator farmers.

Reviser's note.—Amended to conform to the transfer of chapter 372 to chapter 379 by ch. 2008-247, Laws of Florida.

Section 77. Subsection (7), paragraph (a) of subsection (8), and subsections (9) and (12) of section 597.010, Florida Statutes, are amended to read:

597.010 Shellfish regulation; leases.—

(7) SURCHARGE FOR IMPROVEMENT OR REHABILITATION.—A surcharge of $10 per acre, or any fraction of an acre, per annum shall be levied upon each lease, other than a perpetual lease granted pursuant to former chapter 370 prior to 1985, and deposited into the General Inspection Trust Fund. The purpose of the surcharge is to provide a mechanism to have financial resources immediately available for improvement of lease areas and for cleanup and rehabilitation of abandoned or vacated lease sites. The department is authorized to adopt rules necessary to carry out the provisions of this subsection.

(a) Moneys in the fund that are not needed currently for cleanup and rehabilitation of abandoned or vacated lease sites shall be deposited with the Chief Financial Officer to the credit of the fund and may be invested in such manner as is provided for by statute. Interest received on such investment shall be credited to the fund.

(b) Funds within the General Inspection Trust Fund from receipts from the surcharge established in this section shall be disbursed for the following purposes and no others:

1. Administrative expenses, personnel expenses, and equipment costs of the department related to the improvement of lease areas, the cleanup and rehabilitation of abandoned or vacated aquaculture lease sites, and the enforcement of provisions of this section.

2. All costs involved in the improvement of lease areas and the cleanup and rehabilitation of abandoned or vacated lease sites.

3. All costs and damages which are the proximate results of lease abandonment or vacation.

4. Reward payments made pursuant to s. 597.0045.

The department shall recover to the use of the fund from the person or persons abandoning or vacating the lease, jointly and severally, all sums owed or expended from the fund.

(8) CULTIVATION REQUIREMENTS.—

(a) Effective cultivation shall consist of the growing of the oysters or clams in a density suitable for commercial harvesting over the amount of bottom prescribed by law. This commercial density shall be accomplished by the planting of seed oysters, shell, and cultch of various descriptions. The department may stipulate in each individual lease contract the types, shape, depth, size, and height of cultch materials on lease bottoms according to the

individual shape, depth, location, and type of bottom of the proposed lease. Each lessee leasing lands under the provisions of this section or s. 253.71 shall begin, within 1 year after the date of such lease, bona fide cultivation of the same, and shall, by the end of the second year after the commencement of such lease, have placed under cultivation at least one-half of the leased area and shall each year thereafter place in cultivation at least one-fourth of the leased area until the whole, suitable for bedding of oysters or clams, shall have been put in cultivation. The cultivation requirements for perpetuity leases granted pursuant to former chapter 370 prior to 1985 under previously existing law shall comply with the conditions stated in the lease agreement, and the lessee or grantee is authorized to plant the leased or granted submerged land in both oysters and clams.

(9) LEASES TRANSFERABLE, ETC.—The leases in chapter 253 and former chapter 370 shall be inheritable and transferable, in whole or in part, and shall also be subject to mortgage, pledge, or hypothecation and shall be subject to seizure and sale for debts as any other property, rights, and credits in this state, and this provision shall also apply to all buildings, betterments, and improvements thereon. Leases granted under this section cannot be transferred, by sale or barter, in whole or in part, without the written, express approval of the department, and such a transferee shall pay a $50 transfer fee before department approval may be given. Leases inherited or transferred will be valid only upon receipt of the transfer fee and approval by the department. The department shall keep proper indexes so that all original leases and all subsequent changes and transfers can be easily and accurately ascertained.

(12) FRANKLIN COUNTY LEASES.—On and after the effective date of this section, the only leases available in Franklin County shall be those issued pursuant to ss. 253.67-253.75; former chapter 370 leases shall no longer be available. The department shall require in the lease agreement such restrictions as it deems necessary to protect the environment, the existing leaseholders, and public fishery.

Reviser's note.—Amended to confirm the editorial addition of the word "former" to provide a historical reference; chapter 370 was transferred to chapter 379 by ch. 2008-247, Laws of Florida.

Section 78. Paragraph (c) of subsection (1) of section 624.4213, Florida Statutes, is amended to read:

624.4213 Trade secret documents.—

(1) If any person who is required to submit documents or other information to the office or department pursuant to the insurance code or by rule or order of the office, department, or commission claims that such submission contains a trade secret, such person may file with the office or department a notice of trade secret as provided in this section. Failure to do so constitutes a waiver of any claim by such person that the document or information is a trade secret.

(c) In submitting a notice of trade secret to the office or department, the submitting party must include an affidavit certifying under oath to the truth

of the following statements concerning all documents or information that are claimed to be trade secrets:

1. [I consider/My company considers] this information a trade secret that has value and provides an advantage or an opportunity to obtain an advantage over those who do not know or use it.

2. [I have/My company has] taken measures to prevent the disclosure of the information to anyone other than ~~that~~ those who have been selected to have access for limited purposes, and [I intend/my company intends] to continue to take such measures.

3. The information is not, and has not been, reasonably obtainable without [my/our] consent by other persons by use of legitimate means.

4. The information is not publicly available elsewhere.

Reviser's note.—Amended to confirm the editorial substitution of the word "than" for the word "that" to correct a typographical error.

Section 79. Subsection (2) of section 626.8541, Florida Statutes, is amended to read:

626.8541 Public adjuster apprentice.—

(2) A public adjuster apprentice must work with a licensed and appointed public adjuster for a period of 12 months as set forth in this section, and must otherwise be ~~who otherwise is~~ in full compliance with this chapter, prior to being eligible for appointment as a licensed public adjuster.

Reviser's note.—Amended to confirm the editorial substitution of the words "must otherwise be" for the words "who otherwise is" to improve clarity and facilitate correct interpretation.

Section 80. Section 626.8796, Florida Statutes, is amended to read:

626.8796 Public adjuster contracts; fraud statement.—All contracts for public adjuster services must be in writing and must prominently display the following statement on the contract: "Pursuant to s. 817.234, Florida Statutes, any person who, with the intent to injure, defraud, or deceive any insurer or insured, prepares, presents, or causes to be presented a proof of loss or estimate of cost or repair of damaged property in support of a claim under an insurance policy knowing that the proof of loss or estimate of claim or repairs contains any false, incomplete, or misleading information concerning any fact or thing material to the claim commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083 ~~775.803~~, or s. 775.084, Florida Statutes."

Reviser's note.—Amended to confirm the editorial substitution of a reference to s. 775.083 for a reference to s. 775.803 to correct an apparent error. Section 775.803 does not exist; s. 775.083 provides for punishment for a third degree felony.

Section 81. Section 626.8797, Florida Statutes, is amended to read:

626.8797 Proof of loss; fraud statement.—All proof of loss statements must prominently display the following statement: "Pursuant to s. 817.234, Florida Statutes, any person who, with the intent to injure, defraud, or deceive any insurer or insured, prepares, presents, or causes to be presented a proof of loss or estimate of cost or repair of damaged property in support of a claim under an insurance policy knowing that the proof of loss or estimate of claim or repairs contains any false, incomplete, or misleading information concerning any fact or thing material to the claim commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083 ~~775.803~~, or s. 775.084, Florida Statutes."

Reviser's note.—Amended to confirm the editorial substitution of a reference to s. 775.083 for a reference to s. 775.803 to correct an apparent error. Section 775.803 does not exist; s. 775.083 provides for punishment for a third degree felony.

Section 82. Subsection (2) of section 627.0621, Florida Statutes, is amended to read:

627.0621 Transparency in rate regulation.—

(2) WEBSITE FOR PUBLIC ACCESS TO RATE FILING INFORMATION.—With respect to any rate filing made on or after July 1, 2008, the office shall provide the following information on a publicly accessible Internet website:

(a) The overall rate change requested by the insurer.

(b) All assumptions made by the office's actuaries.

(c) A statement describing any assumptions or methods that deviate from the actuarial standards of practice of the Casualty Actuarial Society or the American Academy of Actuaries, including an explanation of the nature, rationale, and effect of the deviation.

(d) All recommendations made by any office actuary who reviewed the rate filing.

(e) Certification by the office's actuary that, based on the actuary's knowledge, his or her recommendations are consistent with accepted actuarial principles.

(f) The overall rate change approved by the office.

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

Section 83. Paragraph (c) of subsection (1) 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.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(c) It is the intent of the Legislature to create the Florida Commission on Hurricane Loss Projection Methodology as a panel of experts to provide the most actuarially sophisticated guidelines and standards for projection of hurricane losses possible, given the current state of actuarial science. It is the further intent of the Legislature that such standards and guidelines must be used by the State Board of Administration in developing reimbursement premium rates for the Florida Hurricane Catastrophe Fund, and, subject to paragraph (3)(d) ~~(3)(c)~~, must be used by insurers in rate filings under s. 627.062 unless the way in which such standards and guidelines were applied by the insurer was erroneous, as shown by a preponderance of the evidence.

Reviser's note.—Amended to conform to the redesignation of paragraph (3)(c) as paragraph (3)(d) by s. 11, ch. 2008-66, Laws of Florida.

Section 84. Subsection (2) of section 627.351, Florida Statutes, is reenacted to read:

627.351 Insurance risk apportionment plans.—

(2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

(a) Agreements may be made among property insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to, but are unable to procure, such insurance through ordinary methods; and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance. Such agreements and rate modifications shall be subject to the applicable provisions of this chapter.

(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, Broward, and Palm Beach Counties or at least 30 percent of the policies so removed cover risks located in Miami-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 pro-

portion 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. It is the intent of the Legislature that the rates for coverage provided by the association be actuarially sound and not competitive with approved rates charged in the admitted voluntary market such that the association functions as a residual market mechanism to provide insurance only when the insurance cannot be procured in the voluntary market. The plan of operation shall provide a mechanism to assure that, beginning no later than January 1, 1999, the rates charged by the association for each line of business are reflective of approved rates in the voluntary market for hurricane coverage for each line of business in the various areas eligible for association coverage.

c. The association shall provide for windstorm coverage on residential properties in limits up to $10 million for commercial lines residential risks

and up to $1 million for personal lines residential risks. If coverage with the association is sought for a residential risk valued in excess of these limits, coverage shall be available to the risk up to the replacement cost or actual cash value of the property, at the option of the insured, if coverage for the risk cannot be located in the authorized market. The association must accept a commercial lines residential risk with limits above $10 million or a personal lines residential risk with limits above $1 million if coverage is not available in the authorized market. The association may write coverage above the limits specified in this subparagraph with or without facultative or other reinsurance coverage, as the association determines appropriate.

d. The plan of operation must provide objective criteria and procedures, approved by the department, to be uniformly applied for all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

(I) Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and

(II) Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the association pursuant to such criteria and procedures must be construed as the private placement of insurance, and the provisions of chapter 120 do not apply.

e. If the risk accepts an offer of coverage through the market assistance program or through a mechanism established by the association, either before the policy is issued by the association or during the first 30 days of coverage by the association, and the producing agent who submitted the application to the association is not currently appointed by the insurer, the insurer shall:

(I) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the association; or

(II) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the association's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-subparagraph (I). Subject to the provisions of s. 627.3517, the policies issued by the association must provide that if the association obtains an offer from an authorized insurer to cover the risk at its approved rates under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the department, a basic policy including wind coverage, the risk is no longer eligible for coverage through the association. Upon

termination of eligibility, the association shall provide written notice to the policyholder and agent of record stating that the association policy must be canceled as of 60 days after the date of the notice because of the offer of coverage from an authorized insurer. Other provisions of the insurance code relating to cancellation and notice of cancellation do not apply to actions under this sub-subparagraph.

f. When the association enters into a contractual agreement for a take-out plan, the producing agent of record of the association policy is entitled to retain any unearned commission on the policy, and the insurer shall:

(I) Pay to the producing agent of record of the association policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the association; or

(II) Offer to allow the producing agent of record of the association policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the association's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-subparagraph (I).

6.a. The plan of operation may authorize the formation of a private nonprofit corporation, a private nonprofit unincorporated association, a partnership, a trust, a limited liability company, or a nonprofit mutual company which may be empowered, among other things, to borrow money by issuing bonds or by incurring other indebtedness and to accumulate reserves or funds to be used for the payment of insured catastrophe losses. The plan may authorize all actions necessary to facilitate the issuance of bonds, including the pledging of assessments or other revenues.

b. Any entity created under this subsection, or any entity formed for the purposes of this subsection, may sue and be sued, may borrow money; issue bonds, notes, or debt instruments; pledge or sell assessments, market equalization surcharges and other surcharges, rights, premiums, contractual rights, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, and other assets as security for such bonds, notes, or debt instruments; enter into any contracts or agreements necessary or proper to accomplish such borrowings; and take other actions necessary to carry out the purposes of this subsection. The association may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (6)(p)2., 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.

(c) The provisions of paragraph (b) are applicable only with respect to:

1. Those areas that were eligible for coverage under this subsection on April 9, 1993; or

2. Any county or area as to which the department, after public hearing, finds that the following criteria exist:

a. Due to the lack of windstorm insurance coverage in the county or area so affected, economic growth and development is being deterred or otherwise

stifled in such county or area, mortgages are in default, and financial institutions are unable to make loans;

b. The county or area so affected is enforcing the structural requirements of the Florida Building Code, as defined in s. 553.73, for new construction and has included adequate minimum floor elevation requirements for structures in areas subject to inundation; and

c. Extending windstorm insurance coverage to such county or area is consistent with and will implement and further the policies and objectives set forth in applicable state laws, rules, and regulations governing coastal management, coastal construction, comprehensive planning, beach and shore preservation, barrier island preservation, coastal zone protection, and the Coastal Zone Protection Act of 1985.

The department shall consider reports of the Florida Building Commission when evaluating building code enforcement. Any time after the department has determined that the criteria referred to in this subparagraph do not exist with respect to any county or area of the state, it may, after a subsequent public hearing, declare that such county or area is no longer eligible for windstorm coverage through the plan.

(d) For the purpose of evaluating whether the criteria of paragraph (c) are met, such criteria shall be applied as the situation would exist if policies had not been written by the Florida Residential Property and Casualty Joint Underwriting Association and property insurance for such policyholders was not available.

(e)1. Notwithstanding the provisions of subparagraph (c)2. or paragraph (d), eligibility shall not be extended to any area that was not eligible on March 1, 1997, except that the department may act with respect to any petition on which a hearing was held prior to May 9, 1997.

2. Notwithstanding the provisions of subparagraph 1., the following area is eligible for coverage under this subsection effective July 1, 2002: the area within Port Canaveral which is bordered on the south by the City of Cape Canaveral, bordered on the west by the Banana River, and bordered on the north by United States Government property.

(f) As used in this subsection, the term “department” means the former Department of Insurance.

Reviser’s note.—Section 13, ch. 2008-66, Laws of Florida, amended subsection (2) without publishing paragraphs (a) and (c)-(f). Absent affirmative evidence of legislative intent to repeal the omitted paragraphs, subsection (2) is reenacted to confirm the omission was not intended.

Section 85. Section 627.35193, Florida Statutes, is amended to read:

627.35193 Consumer reporting agency request for claims data from Citizens Property Insurance Corporation.—Upon the request of a consumer reporting agency, as defined by the federal Fair Credit Reporting Act, 15 U.S.C. ss. 1681 et seq., which consumer reporting agency is <u>in</u> ~~on~~ compliance

with the confidentiality requirements of such act, the Citizens Property Insurance Corporation shall electronically report claims data and histories to such consumer reporting agency which maintains a database of similar data for use in connection with the underwriting of insurance involving a consumer.

Reviser's note.—Amended to confirm the editorial substitution of the word "in" for the word "on" to correct a typographical error.

Section 86. Paragraph (a) of subsection (5) of section 627.736, Florida Statutes, is 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) 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 allowable amount under the participating physicians schedule of Medicare Part B. 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 allowable amount under the participating physicians schedule <u>of</u> Medicare Part B for 2007 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.

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

Section 87. Paragraph (j) of subsection (11) of section 718.111, Florida Statutes, is amended to read:

718.111 The association.—

(11) INSURANCE.—In order to protect the safety, health, and welfare of the people of the State of Florida and to ensure consistency in the provision of insurance coverage to condominiums and their unit owners, this subsection applies to every residential condominium in the state, regardless of the date of its declaration of condominium. It is the intent of the Legislature to encourage lower or stable insurance premiums for associations described in this subsection.

(j) Any portion of the condominium property required to be insured by the association against casualty loss pursuant to paragraph (f) which is damaged by casualty shall be reconstructed, repaired, or replaced as necessary by the association as a common expense. All hazard insurance deductibles, uninsured losses, and other damages in excess of hazard insurance coverage under the hazard insurance policies maintained by the association are a common expense of the condominium, except that:

1. A unit owner is responsible for the costs of repair or replacement of any portion of the condominium property not paid by insurance proceeds, if such damage is caused by intentional conduct, negligence, or failure to comply with the terms of the declaration or the rules of the association by a unit owner, the members of his or her family, unit occupants, tenants, guests, or invitees, without compromise of the subrogation rights of any insurer as set forth in paragraph (g).

2. The provisions of subparagraph 1. regarding the financial responsibility of a unit owner for the costs of repairing or replacing other portions of the condominium property also apply to the costs of repair or replacement of personal property of other unit owners or the association, as well as other property, whether real or personal, which the unit owners are required to insure under paragraph (g).

3. To the extent the cost of repair or reconstruction for which the unit owner is responsible under this paragraph is reimbursed to the association by insurance proceeds, and, to the extent the association has collected the cost of such repair or reconstruction from the unit owner, the association shall reimburse the unit owner without the waiver of any rights of subrogation.

4. The association is not obligated to pay for ~~repair or~~ reconstruction or repairs of casualty losses as a common expense if the casualty losses were known or should have been known to a unit owner and were not reported to the association until after the insurance claim of the association for that casualty was settled or resolved with finality, or denied on the basis that it was untimely filed.

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

Section 88. Paragraph (o) of subsection (2) of section 718.112, Florida Statutes, is amended to read:

718.112 Bylaws.—

(2) REQUIRED PROVISIONS.—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(o) Director or officer offenses.—A director or officer charged with a felony theft or embezzlement offense involving the association's funds or property shall be removed from office, creating a vacancy in the office to be filled according to law. While such director or officer has such criminal charge pending, he or she may not be appointed or elected to a position as a director

or officer. However, should the charges be resolved without a finding of guilt, the director or ~~of~~ officer shall be reinstated for the remainder of his or her term of office, if any.

Reviser's note.—Amended to confirm the substitution of the word "or" for the word "of" by the editors.

Section 89. Subsection (7) of section 718.113, Florida Statutes, is amended to read:

718.113 Maintenance; limitation upon improvement; display of flag; hurricane shutters; display of religious decorations.—

(7) An association may not refuse the request of a unit owner for a reasonable accommodation for the attachment on the mantel or frame of the door of the unit owner of a religious object not to exceed 3 inches wide, 6 inches high, and 1.5 inches deep.

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

Section 90. Paragraph (d) of subsection (1) of section 718.501, Florida Statutes, is amended to read:

718.501 Authority, responsibility, and duties of Division of Florida Condominiums, Timeshares, and Mobile Homes.—

(1) The Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation, referred to as the "division" in this part, has the power to enforce and ensure compliance with the provisions of this chapter and rules relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units. In performing its duties, the division has complete jurisdiction to investigate complaints and enforce compliance with the provisions of this chapter with respect to associations that are still under developer control and complaints against developers involving improper turnover or failure to turnover, pursuant to s. 718.301. However, after turnover has occurred, the division shall only have jurisdiction to investigate complaints related to financial issues, elections, and unit owner access to association records pursuant to s. 718.111(12).

(d) Notwithstanding any remedies available to unit owners and associations, if the division has reasonable cause to believe that a violation of any provision of this chapter or related rule has occurred, the division may institute enforcement proceedings in its own name against any developer, association, officer, or member of the board of administration, or its assignees or agents, as follows:

1. The division may permit a person whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the person.

2. The division may issue an order requiring the developer, association, developer-designated officer, or developer-designated member of the board of administration, developer-designated assignees or agents, community association manager, or community association management firm to cease and desist from the unlawful practice and take such affirmative action as in the judgment of the division will carry out the purposes of this chapter. If the division finds that a developer, association, officer, or member of the board of administration, or its assignees or agents, is violating or is about to violate any provision of this chapter, any rule adopted or order issued by the division, or any written agreement entered into with the division, and presents an immediate danger to the public requiring an immediate final order, it may issue an emergency cease and desist order reciting with particularity the facts underlying such findings. The emergency cease and desist order is effective for 90 days. If the division begins nonemergency cease and desist proceedings, the emergency cease and desist order remains effective until the conclusion of the proceedings under ss. 120.569 and 120.57.

3. If a developer fails to pay any restitution determined by the division to be owed, plus any accrued interest at the highest rate permitted by law, within 30 days after expiration of any appellate time period of a final order requiring payment of restitution or the conclusion of any appeal thereof, whichever is later, the division shall bring an action in circuit or county court on behalf of any association, class of unit owners, lessees, or purchasers for restitution, declaratory relief, injunctive relief, or any other available remedy. The division may also temporarily revoke its acceptance of the filing for the developer to which the restitution relates until payment of restitution is made.

4. The division may petition the court for the appointment of a receiver or conservator. If appointed, the receiver or conservator may take action to implement the court order to ensure the performance of the order and to remedy any breach thereof. In addition to all other means provided by law for the enforcement of an injunction or temporary restraining order, the circuit court may impound or sequester the property of a party defendant, including books, papers, documents, and related records, and allow the examination and use of the property by the division and a court-appointed receiver or conservator.

5. The division may apply to the circuit court for an order of restitution whereby the defendant in an action brought pursuant to subparagraph 4. shall be ordered to make restitution of those sums shown by the division to have been obtained by the defendant in violation of this chapter. Such restitution shall, at the option of the court, be payable to the conservator or receiver appointed pursuant to subparagraph 4. or directly to the persons whose funds or assets were obtained in violation of this chapter.

6. The division may impose a civil penalty against a developer or association, or its assignee or agent, for any violation of this chapter or a rule adopted under this chapter. The division may impose a civil penalty individually against any officer or board member who willfully and knowingly violates a provision of this chapter, adopted rule, or a final order of the division; may order the removal of such individual as an officer or from the

board of administration or as an officer of the association; and may prohibit such individual from serving as an officer or on the board of a community association for a period of time. The term "willfully and knowingly" means that the division informed the officer or board member that his or her action or intended action violates this chapter, a rule adopted under this chapter, or a final order of the division and that the officer or board member refused to comply with the requirements of this chapter, a rule adopted under this chapter, or a final order of the division. The division, prior to initiating formal agency action under chapter 120, shall afford the officer or board member an opportunity to voluntarily comply with this chapter, a rule adopted under this chapter, or a final order of the division. An officer or board member who complies within 10 days is not subject to a civil penalty. A penalty may be imposed on the basis of each day of continuing violation, but in no event shall the penalty for any offense exceed $5,000. By January 1, 1998, the division shall adopt, by rule, penalty guidelines applicable to possible violations or to categories of violations of this chapter or rules adopted by the division. The guidelines must specify a meaningful range of civil penalties for each such violation of the statute and rules and must be based upon the harm caused by the violation, the repetition of the violation, and upon such other factors deemed relevant by the division. For example, the division may consider whether the violations were committed by a developer or owner-controlled association, the size of the association, and other factors. The guidelines must designate the possible mitigating or aggravating circumstances that justify a departure from the range of penalties provided by the rules. It is the legislative intent that minor violations be distinguished from those which endanger the health, safety, or welfare of the condominium residents or other persons and that such guidelines provide reasonable and meaningful notice to the public of likely penalties that may be imposed for proscribed conduct. This subsection does not limit the ability of the division to informally dispose of administrative actions or complaints by stipulation, agreed settlement, or consent order. All amounts collected shall be deposited with the Chief Financial Officer to the credit of the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund. If a developer fails to pay the civil penalty and the amount deemed to be owed to the association, the division shall issue an order directing that such developer cease and desist from further operation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If an association fails to pay the civil penalty, the division shall pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order will not become effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in the county where the violation occurred.

7. If a unit owner presents the division with proof that the unit owner has requested access to official records in writing by certified mail, and that after 10 days the unit owner again made the same request for access to official records in writing by certified mail, and that more than 10 days has elapsed since the second request and the association has still failed or refused to provide access to official records as required by this chapter, the

division shall issue a subpoena requiring production of the requested records where the records are kept pursuant to s. 718.112.

8. In addition to subparagraph 6., the division may seek the imposition of a civil penalty through the circuit court for any violation for which the division may issue a notice to show cause under paragraph (r) ~~(q)~~. The civil penalty shall be at least $500 but no more than $5,000 for each violation. The court may also award to the prevailing party court costs and reasonable attorney's fees and, if the division prevails, may also award reasonable costs of investigation.

Reviser's note.—Amended to confirm the substitution of a reference to "paragraph (r)" for a reference to "paragraph (q)" by the editors to conform to the compilation of the 2008 Florida Statutes.

Section 91. Paragraph (a) of subsection (2) of section 718.503, Florida Statutes, is amended to read:

718.503 Developer disclosure prior to sale; nondeveloper unit owner disclosure prior to sale; voidability.—

(2) NONDEVELOPER DISCLOSURE.—

(a) Each unit owner who is not a developer as defined by this chapter shall comply with the provisions of this subsection prior to the sale of his or her unit. Each prospective purchaser who has entered into a contract for the purchase of a condominium unit is entitled, at the seller's expense, to a current copy of the declaration of condominium, articles of incorporation of the association, bylaws and rules of the association, financial information required by s. 718.111, and the document entitled "Frequently Asked Questions and Answers" required by s. 718.504. On and after January 1, 2009, the prospective purchaser shall also be entitled to receive from the seller a copy of a governance form. Such form shall be provided by the division summarizing governance of condominium associations. In addition to such other information as the division considers helpful to a prospective purchaser in understanding association governance, the governance form shall address the following subjects:

1. The role of the board in conducting the day-to-day affairs of the association on behalf of, and in the best interests of, the owners.

2. The board's responsibility to provide advance notice of board and membership meetings.

3. The rights of owners to attend and speak at board and membership meetings.

4. The responsibility of the board and of owners with respect to maintenance of the condominium property.

5. The responsibility of the board and owners to abide by the condominium documents, this chapter, rules adopted by the division, and reasonable rules adopted by the board.

6. Owners' rights to inspect and copy association records and the limitations on such rights.

7. Remedies available to owners with respect to actions by the board which may be abusive or beyond the board's power and authority.

8. The right of the board to hire a property management firm, subject to its own primary responsibility for such management.

9. The responsibility of owners with regard to payment of regular or special assessments necessary for the operation of the property and the potential consequences of failure to pay such assessments.

10. The voting rights of owners.

11. Rights and obligations of the board in enforcement of rules in the condominium documents and rules adopted by the board.

The governance form shall also include the following statement in conspicuous type: "This publication is intended as an informal educational overview of condominium governance. In the event of a conflict, the provisions of chapter 718, Florida Statutes, rules adopted by the Division of Florida ~~Land Sales,~~ Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation, the provisions of the condominium documents, and reasonable rules adopted by the condominium association's board of administration prevail over the contents of this publication."

Reviser's note.—Amended to confirm the redesignation of the Division of Florida Land Sales, Condominiums, and Mobile Homes as the Division of Florida Condominiums, Timeshares, and Mobile Homes by s. 8, ch. 2008-240, Laws of Florida.

Section 92. Subsection (1) of section 828.25, Florida Statutes, is amended to read:

828.25 Administration; rules; inspection; fees.—

(1) The department shall administer the provisions of ss. 828.22-828.26. It shall adopt and may from time to time revise rules, which rules must conform substantially to and must not be less restrictive than the rules and regulations promulgated by the Secretary of Agriculture of the United States pursuant to the federal Humane Methods of Slaughter Act of 1958, Pub. L. No. 85-765, 72 Stat. 862, and any amendments thereto.

Reviser's note.—Amended to conform to the correct name of the federal Humane Methods of Slaughter Act of 1958.

Section 93. Paragraph (c) of subsection (1) of section 937.021, Florida Statutes, is amended to read:

937.021 Missing child and missing adult reports.—

(1) Law enforcement agencies in this state shall adopt written policies that specify the procedures to be used to investigate reports of missing

children and missing adults. The policies must ensure that cases involving missing children and adults are investigated promptly using appropriate resources. The policies must include:

(c) Standards for maintaining and clearing computer data of information concerning a missing child or ~~and~~ missing adult which is stored in the Florida Crime Information Center and the National Crime Information Center. The standards must require, at a minimum, a monthly review of each case and a determination of whether the case should be maintained in the database.

Reviser's note.—Amended to substitute the word "or" for the word "and" to conform to usage in the remainder of the section.

Section 94. Section 1000.36, Florida Statutes, is amended to read:

1000.36 Interstate Compact on Educational Opportunity for Military Children.—The Governor is authorized and directed to execute the Interstate Compact on Educational Opportunity for Military Children on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

Interstate Compact on Educational
Opportunity for Military Children

ARTICLE I

PURPOSE.—It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or variations in entrance or age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the adoption and enforcement of administrative rules implementing this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

ARTICLE II

DEFINITIONS.—As used in this compact, unless the context clearly requires a different construction, the term:

A. "Active duty" means the full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. ss. 1209 and 1211.

B. "Children of military families" means school-aged children, enrolled in kindergarten through 12th grade, in the household of an active-duty member.

C. "Compact commissioner" means the voting representative of each compacting state appointed under Article VIII of this compact.

D. "Deployment" means the period 1 month before the service members' departure from their home station on military orders through 6 months after return to their home station.

E. "Educational records" or "education records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including, but not limited to, records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. "Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. "Interstate Commission on Educational Opportunity for Military Children" means the commission that is created under Article IX of this compact, which is generally referred to as the Interstate Commission.

H. "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of, and direction for, kindergarten through 12th grade public educational institutions.

I. "Member state" means a state that has enacted this compact.

J. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other United States Territory. The

term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. "Nonmember state" means a state that has not enacted this compact.

L. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means a written statement by the Interstate Commission adopted under Article XII of this compact which is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

N. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other United States Territory.

P. "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through 12th grade.

Q. "Transition" means:

1. The formal and physical process of transferring from school to school; or

2. The period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. "Uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

S. "Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III

APPLICABILITY.—

A. Except as otherwise provided in Section C, this compact applies to the children of:

1. Active duty members of the uniformed services, including members of the National Guard and Reserve on active-duty orders pursuant to 10 U.S.C. ss. 1209 and 1211;

2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of 1 year after medical discharge or retirement; and

3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of 1 year after death.

B. This interstate compact applies to local education agencies.

C. This compact does not apply to the children of:

1. Inactive members of the National Guard and military reserves;

2. Members of the uniformed services now retired, except as provided in Section A;

3. Veterans of the uniformed services, except as provided in Section A; and

4. Other United States Department of Defense personnel and other federal agency civilian and contract employees not defined as active-duty members of the uniformed services.

ARTICLE IV

EDUCATIONAL RECORDS AND ENROLLMENT.—

A. If a child's official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, that school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of the request, the school in the sending state shall process and furnish the official education records to the school in the receiving state within 10 days or within such time as is reasonably determined under the rules adopted by the Interstate Commission.

C. Compact states must give 30 days from the date of enrollment or within such time as is reasonably determined under the rules adopted by the Interstate Commission for students to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level, including kindergarten, from a local education agency in the sending state at the time of

transition, regardless of age. A student who has satisfactorily completed the prerequisite grade level in the local education agency in the sending state is eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

ARTICLE V

PLACEMENT AND ATTENDANCE.—

A. If a student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes, but is not limited to, Honors, International Baccalaureate, Advanced Placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. A school in the receiving state is not precluded from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

B. The receiving state school must initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state. Such programs include, but are not limited to:

1. Gifted and talented programs; and

2. English as a second language (ESL).

A school in the receiving state is not precluded from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

C. A receiving state must initially provide comparable services to a student with disabilities based on his or her current individualized education program (IEP) in compliance with the requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. s. 1400, et seq. A receiving state must make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing section 504 or title II plan, to provide the student with equal access to education, in compliance with the provisions of Section 504 of the Rehabilitation Act, 29 U.S.C.A. s. 794, and with title II of the Americans with Disabilities Act, 42 U.S.C. ss. 12131-12165. A school in the receiving state is not precluded from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

D. Local education agency administrative officials may waive course or program prerequisites, or other preconditions for placement in courses or programs offered under the jurisdiction of the local education agency.

E. A student whose parent or legal guardian is an active-duty member of the uniformed services and has been called to duty for, is on leave from, or immediately returned from deployment to, a combat zone or combat support posting shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

ARTICLE VI

ELIGIBILITY.—

A. When considering the eligibility of a child for enrolling in a school:

1. A special power of attorney relative to the guardianship of a child of a military family and executed under applicable law is sufficient for the purposes of enrolling the child in school and for all other actions requiring parental participation and consent.

2. A local education agency is prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a school's jurisdiction different from that of the custodial parent.

3. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a school's jurisdiction different from that of the custodial parent, may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

B. State and local education agencies must facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII

GRADUATION.—In order to facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

A. Local education agency administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. If a waiver is not granted to a student who would qualify to graduate from the sending school, the local education agency must provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. States shall accept exit or end-of-course exams required for graduation from the sending state; national norm-referenced achievement tests; or alternative testing, in lieu of testing requirements for graduation in the receiving state. If these alternatives cannot be accommodated by the receiving state for a student transferring in his or her senior year, then the provisions of Article VII, Section C shall apply.

C. If a military student transfers at the beginning of or during his or her senior year and is not eligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies must ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. If one of the states in question is not a member of this compact, the member state shall use its best efforts to facilitate the on-time graduation of the student in accordance with Sections A and B of this Article.

ARTICLE VIII

STATE COORDINATION.—Each member state shall, through the creation of a state council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities.

A. Each member state may determine the membership of its own state council, but the membership must include at least: the state superintendent of education, the superintendent of a school district that has a high concentration of military children, a representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the state council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the state council.

B. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison shall be ex officio members of the state council, unless either is already a full voting member of the state council.

ARTICLE IX

INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.—The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or state council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex officio, nonvoting representatives who are members of interested organizations. The ex officio members, as defined in the bylaws, may include, but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the United States Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a 1-year term. Members of the executive committee are entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact, including enforcement and compliance with the compact, its bylaws and rules, and other such duties as deemed necessary. The United States Department of Defense shall serve as an ex officio, nonvoting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the

compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;

2. Disclose matters specifically exempted from disclosure by federal and state statute;

3. Disclose trade secrets or commercial or financial information which is privileged or confidential;

4. Involve accusing a person of a crime, or formally censuring a person;

5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Disclose investigative records compiled for law enforcement purposes; or

7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. For a meeting, or portion of a meeting, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemptible provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

I. The Interstate Commission shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange, and reporting requirements. The methods of data collection, exchange, and reporting shall, insofar as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. The Interstate Commission shall create a procedure that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section does not create a private right of action against the Interstate Commission or any member state.

ARTICLE X

POWERS AND DUTIES OF THE INTERSTATE COMMISSION.—The Interstate Commission has the power to:

A. Provide for dispute resolution among member states.

B. Adopt rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules have the force and effect of statutory law and are binding in the compact states to the extent and in the manner provided in this compact.

C. Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions.

D. Enforce compliance with the compact provisions, the rules adopted by the Interstate Commission, and the bylaws, using all necessary and proper means, including, but not limited to, the use of judicial process.

E. Establish and maintain offices that shall be located within one or more of the member states.

F. Purchase and maintain insurance and bonds.

G. Borrow, accept, hire, or contract for services of personnel.

H. Establish and appoint committees, including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

I. Elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

J. Accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

K. Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

L. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

M. Establish a budget and make expenditures.

N. Adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. Report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any

recommendations that may have been adopted by the Interstate Commission.

P. Coordinate education, training, and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity.

Q. Establish uniform standards for the reporting, collecting, and exchanging of data.

R. Maintain corporate books and records in accordance with the bylaws.

S. Perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

T. Provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

ARTICLE XI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.—

A. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;

2. Establishing an executive committee and such other committees as may be necessary;

3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;

4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each such meeting;

5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;

6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations.

7. Providing “start up” rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice chairperson, and a

treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. The executive committee has the authority and duties as may be set forth in the bylaws, including, but not limited to:

1. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;

2. Overseeing an organizational structure within, and appropriate procedures for, the Interstate Commission to provide for the adoption of rules, operating procedures, and administrative and technical support functions; and

3. Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.

D. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission but is not a member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

E. The Interstate Commission's executive director and its employees are immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities, provided that the person is not protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.

1. The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of the person's employment or duties, for acts, errors, or omissions occurring within the person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. This subsection does not protect the person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.

2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend an Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.

3. To the extent not covered by the state involved, a member state, the Interstate Commission, and the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against a person arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.

ARTICLE XII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION.—The Interstate Commission shall adopt rules to effectively and efficiently implement this act to achieve the purposes of this compact.

A. If the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this act, or the powers granted hereunder, the action undertaken by the Interstate Commission is invalid and has no force or effect.

B. Rules must be adopted pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. No later than 30 days after a rule is adopted, a person may file a petition for judicial review of the rule. The filing of the petition does not stay or otherwise prevent the rule from becoming effective unless a court finds that the petitioner has a substantial likelihood of success on the merits of the petition. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule is invalid and has no further force and effect in any compacting state.

ARTICLE XIII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION.—

A. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules adopted under it have the force and effect of statutory law.

B. All courts shall take judicial notice of the compact and its adopted rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission.

C. The Interstate Commission is entitled to receive all service of process in any such proceeding, and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission renders a judgment or order void as to the Interstate Commission, this compact, or its adopted rules.

D. If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or the adopted rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission must specify the conditions by which the defaulting state must cure its default.

2. Provide remedial training and specific technical assistance regarding the default.

3. If the defaulting state fails to cure the default, terminate the defaulting state from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

E. Suspension or termination of membership in the compact may not be imposed on a member until all other means of securing compliance have been exhausted. Notice of the intent to suspend or terminate membership must be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

F. A state that has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, including obligations, the performance of which extends beyond the effective date of suspension or termination.

G. The remaining member states of the Interstate Commission do not bear any costs arising from a state that has been found to be in default or that has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

H. A defaulting state may appeal the action of the Interstate Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

I. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that may arise among member states and between member and nonmember states. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices to enforce compliance with the provisions of the compact, or its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein are not the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XIV

FINANCING OF THE INTERSTATE COMMISSION.—

A. The Interstate Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall adopt a rule binding upon all member states.

C. The Interstate Commission may not incur any obligation of any kind before securing the funds adequate to meet the obligation and the Interstate

Commission may not pledge the credit of any of the member states, except by and with the permission of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission are subject to audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XV

MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT.—

A. Any state is eligible to become a member state.

B. The compact shall take effect and be binding upon legislative enactment of the compact into law by not less than 10 of the states. The effective date shall be no earlier than December 1, 2007. Thereafter, it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis before adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. An amendment does not become effective and binding upon the Interstate Commission and the member states until the amendment is enacted into law by unanimous consent of the member states.

ARTICLE XVI

WITHDRAWAL AND DISSOLUTION.—

A. Once in effect, the compact continues in force and remains binding upon each and every member state, provided that a member state may withdraw from the compact, specifically repealing the statute that enacted the compact into law.

1. Withdrawal from the compact occurs when a statute repealing its membership is enacted by the state, but does not take effect until 1 year after the effective date of the statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member state.

2. The withdrawing state must immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days after its receipt thereof.

3. A withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including

obligations, the performance of which extend beyond the effective date of withdrawal.

4. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

C. Upon the dissolution of this compact, the compact becomes void and has no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVII

SEVERABILITY AND CONSTRUCTION.—

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. This compact does not prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII

BINDING EFFECT OF COMPACT AND OTHER LAWS.—

A. This compact does not prevent the enforcement of any other law of a member state that is not inconsistent with this compact.

B. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

C. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

D. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

E. If any part of this compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

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

Section 95. Subsection (1) of section 1001.395, Florida Statutes, as amended by section 1 of chapter 2009-3, Laws of Florida, is amended to read:

1001.395 District school board members; compensation.—

(1) 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	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 delete a provision that has served its purpose.

Section 96. Paragraph (e) of subsection (4) of section 1002.36, Florida Statutes, is amended to read:

1002.36 Florida School for the Deaf and the Blind.—

(4) BOARD OF TRUSTEES.—

(e) The board of trustees is invested with full power and authority to:

1. Appoint a president, faculty, teachers, and other employees and remove the same as in its judgment may be best and fix their compensation.

2. Procure professional services, such as medical, mental health, architectural, and engineering.

3. Procure legal services without the prior written approval of the Attorney General.

4. Determine eligibility of students and procedure for admission.

5. Provide for the students of the school necessary bedding, clothing, food, and medical attendance and such other things as may be proper for the

health and comfort of the students without cost to their parents, except that the board of trustees may set tuition and other fees for nonresidents.

6. Provide for the proper keeping of accounts and records and for budgeting of funds.

7. Enter into contracts.

8. Sue and be sued.

9. Secure public liability insurance.

10. Do and perform every other matter or thing requisite to the proper management, maintenance, support, and control of the school at the highest efficiency economically possible, the board of trustees taking into consideration the purposes of the establishment.

11. Receive gifts, donations, and bequests of money or property, real or personal, tangible or intangible, from any person, firm, corporation, or other legal entity. However, the board of trustees may not obligate the state to any expenditure or policy that is not specifically authorized by law. If the bill of sale, will, trust indenture, deed, or other legal conveyance specifies terms and conditions concerning the use of such money or property, the board of trustees shall observe such terms and conditions.

12. Deposit outside the State Treasury such moneys as are received as gifts, donations, or bequests and may disburse and expend such moneys, upon its own warrant, for the use and benefit of the Florida School for the Deaf and the Blind and its students, as the board of trustees deems to be in the best interest of the school and its students. Such money or property shall not constitute or be considered a part of any legislative appropriation.

13. Sell or convey by bill of sale, deed, or other legal instrument any property, real or personal, received as a gift, donation, or bequest, upon such terms and conditions as the board of trustees deems to be in the best interest of the school and its students.

14. Invest such moneys in securities enumerated under s. 215.47(1), (2)(c), (3), (4), and (10) ~~215.47(1), (2)(c), (3), (4), and (9)~~, and in The Common Fund, an Investment Management Fund exclusively for nonprofit educational institutions.

Reviser's note.—Amended to conform to the renumbering of subsections resulting from the addition of a new subsection (7) by s. 3, ch. 2008-31, Laws of Florida.

Section 97. Subsection (4) of section 1006.035, Florida Statutes, is amended to read:

1006.035 Dropout reentry and mentor project.—

(4) In each of the four locations, the project shall identify 15 high-achieving minority students to serve as one-on-one mentors to the students

who are being reentered in school. An alumnus of Bethune-Cookman University ~~College~~, Florida Memorial University ~~College~~, Edward Waters College, or Florida Agricultural and Mechanical University shall be assigned to each pair of students. Student mentors and alumni must serve as role models and resource people for the students who are being reentered in school.

Reviser's note.—Amended to conform to the correct names of Bethune-Cookman University and Florida Memorial University.

Section 98. Subsection (1) of section 1006.59, Florida Statutes, is amended to read:

1006.59 The Historically Black College and University Library Improvement Program.—

(1) It is the intent of the Legislature to enhance the quality of the libraries at Florida Agricultural and Mechanical University, Bethune-Cookman University ~~College~~, Edward Waters College, and Florida Memorial University ~~College~~.

Reviser's note.—Amended to conform to the correct names of Bethune-Cookman University and Florida Memorial University.

Section 99. Paragraph (c) of subsection (3) of section 1008.22, Florida Statutes, is amended to read:

1008.22 Student assessment program for public schools.—

(3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner shall design and implement a statewide program of educational assessment that provides information for the improvement of the operation and management of the public schools, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs. The commissioner may enter into contracts for the continued administration of the assessment, testing, and evaluation programs authorized and funded by the Legislature. Contracts may be initiated in 1 fiscal year and continue into the next and may be paid from the appropriations of either or both fiscal years. The commissioner is authorized to negotiate for the sale or lease of tests, scoring protocols, test scoring services, and related materials developed pursuant to law. Pursuant to the statewide assessment program, the commissioner shall:

(c) Develop and implement a student achievement testing program known as the Florida Comprehensive Assessment Test (FCAT) as part of the statewide assessment program to measure a student's content knowledge and skills in reading, writing, science, and mathematics. Other content areas may be included as directed by the commissioner. Comprehensive assessments of reading and mathematics shall be administered annually in grades 3 through 10. Comprehensive assessments of writing and science shall be administered at least once at the elementary, middle, and high school levels. End-of-course assessments for a subject may be administered in addition to the comprehensive assessments required for that subject

under this paragraph. An end-of-course assessment must be rigorous, statewide, standardized, and developed or approved by the department. The content knowledge and skills assessed by comprehensive and end-of-course assessments must be aligned to the core curricular content established in the Sunshine State Standards. The commissioner may select one or more nationally developed comprehensive examinations, which may include, but need not be limited to, examinations for a College Board Advanced Placement course, International Baccalaureate course, or Advanced International Certificate of Education course or industry-approved examinations to earn national industry certifications as defined in s. 1003.492, for use as end-of-course assessments under this paragraph, if the commissioner determines that the content knowledge and skills assessed by the examinations meet or exceed the grade level expectations for the core curricular content established for the course in the Next Generation Sunshine State Standards. The commissioner may collaborate with the American Diploma Project in the adoption or development of rigorous end-of-course assessments that are aligned to the Next Generation Sunshine State Standards. The testing program must be designed as follows:

1. The tests shall measure student skills and competencies adopted by the State Board of Education as specified in paragraph (a). The tests must measure and report student proficiency levels of all students assessed in reading, writing, mathematics, and science. The commissioner shall provide for the tests to be developed or obtained, as appropriate, through contracts and project agreements with private vendors, public vendors, public agencies, postsecondary educational institutions, or school districts. The commissioner shall obtain input with respect to the design and implementation of the testing program from state educators, assistive technology experts, and the public.

2. The testing program shall be composed of criterion-referenced tests that shall, to the extent determined by the commissioner, include test items that require the student to produce information or perform tasks in such a way that the core content knowledge and skills he or she uses can be measured.

3. Beginning with the 2008-2009 school year, the commissioner shall discontinue administration of the selected-response test items on the comprehensive assessments of writing. Beginning with the 2012-2013 school year, the comprehensive assessments of writing shall be composed of a combination of selected-response test items, short-response performance tasks, and extended-response performance tasks, which shall measure a student's content knowledge of writing, including, but not limited to, paragraph and sentence structure, sentence construction, grammar and usage, punctuation, capitalization, spelling, parts of speech, verb tense, irregular verbs, subject-verb agreement, and noun-pronoun agreement.

4. A score shall be designated for each subject area tested, below which score a student's performance is deemed inadequate. The school districts shall provide appropriate remedial instruction to students who score below these levels.

5. Except as provided in s. 1003.428(8)(b) or s. 1003.43(11)(b), students must earn a passing score on the grade 10 assessment test described in this paragraph or attain concordant scores as described in subsection (10) ~~(9)~~ in reading, writing, and mathematics to qualify for a standard high school diploma. The State Board of Education shall designate a passing score for each part of the grade 10 assessment test. In establishing passing scores, the state board shall consider any possible negative impact of the test on minority students. The State Board of Education shall adopt rules which specify the passing scores for the grade 10 FCAT. Any such rules, which have the effect of raising the required passing scores, shall apply only to students taking the grade 10 FCAT for the first time after such rules are adopted by the State Board of Education.

6. Participation in the testing program is mandatory for all students attending public school, including students served in Department of Juvenile Justice programs, except as otherwise prescribed by the commissioner. If a student does not participate in the statewide assessment, the district must notify the student's parent and provide the parent with information regarding the implications of such nonparticipation. A parent must provide signed consent for a student to receive classroom instructional accommodations that would not be available or permitted on the statewide assessments and must acknowledge in writing that he or she understands the implications of such instructional accommodations. The State Board of Education shall adopt rules, based upon recommendations of the commissioner, for the provision of test accommodations for students in exceptional education programs and for students who have limited English proficiency. Accommodations that negate the validity of a statewide assessment are not allowable in the administration of the FCAT. However, instructional accommodations are allowable in the classroom if included in a student's individual education plan. Students using instructional accommodations in the classroom that are not allowable as accommodations on the FCAT may have the FCAT requirement waived pursuant to the requirements of s. 1003.428(8)(b) or s. 1003.43(11)(b).

7. A student seeking an adult high school diploma must meet the same testing requirements that a regular high school student must meet.

8. District school boards must provide instruction to prepare students to demonstrate proficiency in the core curricular content established in the Next Generation Sunshine State Standards adopted under s. 1003.41, including the core content knowledge and skills necessary for successful grade-to-grade progression and high school graduation. If a student is provided with instructional accommodations in the classroom that are not allowable as accommodations in the statewide assessment program, as described in the test manuals, the district must inform the parent in writing and must provide the parent with information regarding the impact on the student's ability to meet expected proficiency levels in reading, writing, and mathematics. The commissioner shall conduct studies as necessary to verify that the required core curricular content is part of the district instructional programs.

9. District school boards must provide opportunities for students to demonstrate an acceptable level of performance on an alternative standardized

assessment approved by the State Board of Education following enrollment in summer academies.

10. The Department of Education must develop, or select, and implement a common battery of assessment tools that will be used in all juvenile justice programs in the state. These tools must accurately measure the core curricular content established in the Sunshine State Standards.

11. For students seeking a special diploma pursuant to s. 1003.438, the Department of Education must develop or select and implement an alternate assessment tool that accurately measures the core curricular content established in the Sunshine State Standards for students with disabilities under s. 1003.438.

12. The Commissioner of Education shall establish schedules for the administration of statewide assessments and the reporting of student test results. The commissioner shall, by August 1 of each year, notify each school district in writing and publish on the department's Internet website the testing and reporting schedules for, at a minimum, the school year following the upcoming school year. The testing and reporting schedules shall require that:

a. There is the latest possible administration of statewide assessments and the earliest possible reporting to the school districts of student test results which is feasible within available technology and specific appropriations; however, test results must be made available no later than the final day of the regular school year for students.

b. Beginning with the 2010-2011 school year, a comprehensive statewide assessment of writing is not administered earlier than the week of March 1 and a comprehensive statewide assessment of any other subject is not administered earlier than the week of April 15.

c. A statewide standardized end-of-course assessment is administered within the last 2 weeks of the course.

The commissioner may, based on collaboration and input from school districts, design and implement student testing programs, for any grade level and subject area, necessary to effectively monitor educational achievement in the state, including the measurement of educational achievement of the Sunshine State Standards for students with disabilities. Development and refinement of assessments shall include universal design principles and accessibility standards that will prevent any unintended obstacles for students with disabilities while ensuring the validity and reliability of the test. These principles should be applicable to all technology platforms and assistive devices available for the assessments. The field testing process and psychometric analyses for the statewide assessment program must include an appropriate percentage of students with disabilities and an evaluation or determination of the effect of test items on such students.

Reviser's note.—Amended to confirm the editorial substitution of a reference to subsection (10) for a reference to subsection (9) to conform to the

redesignation of subsection (9) as subsection (10) by s. 18, ch. 2008-235, Laws of Florida.

Section 100. Paragraph (a) of subsection (3) of section 1008.34, Florida Statutes, is amended to read:

1008.34 School grading system; school report cards; district grade.—

(3) DESIGNATION OF SCHOOL GRADES.—

(a) Each school that has students who are tested and included in the school grading system shall receive a school grade, except as follows:

1. A school shall not receive a school grade if the number of its students tested and included in the school grading system is less ~~are fewer~~ than the minimum sample size necessary, based on accepted professional practice, for statistical reliability and prevention of the unlawful release of personally identifiable student data under s. 1002.22 or 20 U.S.C. s. 1232g.

2. An alternative school may choose to receive a school grade under this section or a school improvement rating under s. 1008.341.

3. A school that serves any combination of students in kindergarten through grade 3 which does not receive a school grade because its students are not tested and included in the school grading system shall receive the school grade designation of a K-3 feeder pattern school identified by the Department of Education and verified by the school district. A school feeder pattern exists if at least 60 percent of the students in the school serving a combination of students in kindergarten through grade 3 are scheduled to be assigned to the graded school.

Reviser's note.—Amended to confirm the substitution by the editors of the words "is less" for the words "are fewer" to improve clarity and facilitate correct interpretation.

Section 101. Subsection (2) of section 1008.341, Florida Statutes, is amended to read:

1008.341 School improvement rating for alternative schools.—

(2) SCHOOL IMPROVEMENT RATING.—An alternative school that provides dropout prevention and academic intervention services pursuant to s. 1003.53 shall receive a school improvement rating pursuant to this section. However, an alternative school shall not receive a school improvement rating if the number of its students for whom student performance data is available for the current year and previous year is less ~~are fewer~~ than the minimum sample size necessary, based on accepted professional practice, for statistical reliability and prevention of the unlawful release of personally identifiable student data under s. 1002.22 or 20 U.S.C. s. 1232g. The school improvement rating shall identify an alternative school as having one of the following ratings defined according to rules of the State Board of Education:

(a) "Improving" means the students attending the school are making more academic progress than when the students were served in their home schools.

(b) "Maintaining" means the students attending the school are making progress equivalent to the progress made when the students were served in their home schools.

(c) "Declining" means the students attending the school are making less academic progress than when the students were served in their home schools.

The school improvement rating shall be based on a comparison of student performance data for the current year and previous year. Schools that improve at least one level or maintain an "improving" rating pursuant to this section are eligible for school recognition awards pursuant to s. 1008.36.

Reviser's note.—Amended to confirm the substitution by the editors of the words "is less" for the words "are fewer" to improve clarity and facilitate correct interpretation.

Section 102. 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(18)(e) ~~1001.42(16)(e)~~ and according to rules adopted by the State Board of Education.

Reviser's note.—Amended to conform to the renumbering of subsections by s. 9, ch. 2008-108, Laws of Florida.

Section 103. Subsection (1) and paragraph (a) of subsection (5) of section 1009.73, Florida Statutes, are amended to read:

1009.73 Mary McLeod Bethune Scholarship Program.—

(1) There is established the Mary McLeod Bethune Scholarship Program to be administered by the Department of Education pursuant to this section and rules of the State Board of Education. The program shall provide matching grants for private sources that raise money for scholarships to be awarded to students who attend Florida Agricultural and Mechanical University, Bethune-Cookman University ~~College~~, Edward Waters College, or Florida Memorial University ~~College~~.

(5)(a) In order to be eligible to receive a scholarship pursuant to this section, an applicant must:

1. Meet the general eligibility requirements set forth in s. 1009.40.

2. Be accepted at Florida Agricultural and Mechanical University, Bethune-Cookman University ~~College~~, Edward Waters College, or Florida Memorial University ~~College~~.

3. Enroll as a full-time undergraduate student.

4. Earn a 3.0 grade point average on a 4.0 scale, or the equivalent, for high school subjects creditable toward a diploma.

Reviser's note.—Amended to conform to the correct names of Bethune-Cookman University and Florida Memorial University.

Section 104. Paragraph (b) of subsection (1), paragraphs (d), (h), and (i) of subsection (2), paragraphs (f) and (g) of subsection (6), and paragraph (b) of subsection (7) of section 1012.56, Florida Statutes, are amended to read:

1012.56 Educator certification requirements.—

(1) APPLICATION.—Each person seeking certification pursuant to this chapter shall submit a completed application containing the applicant's social security number to the Department of Education and remit the fee required pursuant to s. 1012.59 and rules of the State Board of Education. Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement is limited to the purpose of administration of the Title IV-D program of the Social Security Act for child support enforcement. Pursuant to s. 120.60, the department shall issue within 90 calendar days after the stamped receipted date of the completed application:

(b) If the applicant meets the requirements and if requested by an employing school district or an employing private school with a professional education competence demonstration program pursuant to paragraphs (6)(f) and (8)(b) ~~(5)(f) and (7)(b)~~, a temporary certificate covering the classification, level, and area for which the applicant is deemed qualified and an official statement of status of eligibility; or

The statement of status of eligibility must advise the applicant of any qualifications that must be completed to qualify for certification. Each statement of status of eligibility is valid for 3 years after its date of issuance, except as provided in paragraph (2)(d).

(2) ELIGIBILITY CRITERIA.—To be eligible to seek certification, a person must:

(d) Submit to background screening in accordance with subsection (10) ~~(9)~~. If the background screening indicates a criminal history or if the appli-

cant acknowledges a criminal history, the applicant's records shall be referred to the investigative section in the Department of Education for review and determination of eligibility for certification. If the applicant fails to provide the necessary documentation requested by the department within 90 days after the date of the receipt of the certified mail request, the statement of eligibility and pending application shall become invalid.

(h) Demonstrate mastery of subject area knowledge, pursuant to subsection (5) ~~(4)~~.

(i) Demonstrate mastery of professional preparation and education competence, pursuant to subsection (6) ~~(5)~~.

(6) MASTERY OF PROFESSIONAL PREPARATION AND EDUCATION COMPETENCE.—Acceptable means of demonstrating mastery of professional preparation and education competence are:

(f) Completion of professional preparation courses as specified in state board rule, successful completion of a professional education competence demonstration program pursuant to paragraph (8)(b) ~~(7)(b)~~, and achievement of a passing score on the professional education competency examination required by state board rule;

(g) Successful completion of a professional preparation alternative certification and education competency program, outlined in paragraph (8)(a) ~~(7)(a)~~; or

(7) TYPES AND TERMS OF CERTIFICATION.—

(b) The department shall issue a temporary certificate to any applicant who completes the requirements outlined in paragraphs (2)(a)-(f) and completes the subject area content requirements specified in state board rule or demonstrates mastery of subject area knowledge pursuant to subsection (5) ~~(4)~~ and holds an accredited degree or a degree approved by the Department of Education at the level required for the subject area specialization in state board rule.

Each temporary certificate is valid for 3 school fiscal years and is nonrenewable. However, the requirement in paragraph (2)(g) must be met within 1 calendar year of the date of employment under the temporary certificate. Individuals who are employed under contract at the end of the 1 calendar year time period may continue to be employed through the end of the school year in which they have been contracted. A school district shall not employ, or continue the employment of, an individual in a position for which a temporary certificate is required beyond this time period if the individual has not met the requirement of paragraph (2)(g). The State Board of Education shall adopt rules to allow the department to extend the validity period of a temporary certificate for 2 years when the requirements for the professional certificate, not including the requirement in paragraph (2)(g), were not completed due to the serious illness or injury of the applicant or other extraordinary extenuating circumstances. The department shall reissue the temporary certificate for 2 additional years upon approval by the Commissioner of Education. A written request for reissuance of the certificate shall

be submitted by the district school superintendent, the governing authority of a university lab school, the governing authority of a state-supported school, or the governing authority of a private school.

Reviser's note.—Amended to conform to the renumbering of subunits by s. 25, ch. 2008-235, Laws of Florida.

Section 105. Paragraph (a) of subsection (4) of section 1012.795, Florida Statutes, is amended to read:

1012.795 Education Practices Commission; authority to discipline.—

(4)(a) An educator certificate that has been suspended under this section is automatically reinstated at the end of the suspension period, provided the certificate did not expire during the period of suspension. If the certificate expired during the period of suspension, the holder of the former certificate may secure a new certificate by making application therefor and by meeting the certification requirements of the state board current at the time of the application for the new certificate. An educator certificate suspended pursuant to paragraph (1)(i) ~~(1)(h)~~ may be reinstated only upon notice from the court or the Department of Revenue that the party has complied with the terms of the support order, subpoena, order to show cause, or written agreement.

Reviser's note.—Amended to conform to the redesignation of paragraph (1)(h) as paragraph (1)(i) by s. 32, ch. 2008-108, Laws of Florida.

Section 106. Subsection (6) of section 1013.12, Florida Statutes, is amended to read:

1013.12 Casualty, safety, sanitation, and firesafety standards and inspection of property.—

(6) CORRECTIVE ACTION; FIRESAFETY DEFICIENCIES.—Upon failure of the board to take corrective action within the time designated in the plan of action to correct any firesafety deficiency noted under paragraph (2)(d) ~~(2)(c)~~ or paragraph (3)(c), the local fire official shall immediately report the deficiency to the State Fire Marshal, who shall have enforcement authority with respect to educational and ancillary plants and educational facilities as provided in chapter 633 for any other building or structure.

Reviser's note.—Amended to conform to the redesignation of paragraph (2)(c) as paragraph (2)(d) by s. 29, ch. 2008-235, Laws of Florida.

Section 107. 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.