

CHAPTER 97-103

Senate Bill No. 440

An act relating to the Florida Statutes; amending ss. 403.087(6)(a), 403.0877(2), 403.091(3)(c), (d), 403.141(2), 403.321(1), 403.331(1)(a), (b), 403.341, 403.381(1), 403.411, 403.412(2)(f), 403.413(6)(c), (f), (h), 403.415(8)(b), 403.60, 403.709(5), 403.716(3), 403.7185(1), 403.721(6)(h), 403.809(2), 403.862(4), 403.905, 404.056(2)(c), (3)(g), (h), 404.161(2), 404.22(2), 404.30, 406.02(1)(b), (c), (2), 406.03, 406.06(2), 406.08(2), (3), (4), (5), 406.11(1), (2)(a), 406.13, 406.145, 406.16, 408.0014(4)(a), 408.006(1)(a), 408.033(1)(a), (2), 408.035(1)(h), 408.05(8)(b), (c), (d), 408.07(29), 408.7045(3), 408.705(6), 408.7071(2)(a), (b), 409.145(2)(a), (c), 409.166(1), 409.212(3), 409.2574(2)(b), 409.2575(1), 409.352(1)(a), (2), 409.401, 410.032(2), 410.603(2), 411.202(2), (7), 413.031(3), 413.033(3)(c), (4)(c), 413.034(2), (4), 413.037(2), 413.063, 413.08(4)(b), (d), 413.20(12), 413.273(1), 413.401, 413.445(3), (4), (5), (6), 413.604, 413.72(1), 415.104(6), 415.1065(2)(c), 415.1085(1), 415.109, 415.1113(10), 415.501(2)(b), 415.506, 415.507(2)(b), 415.5084, 415.511(2), 415.512, 418.302(1), (3), (4), (5), 420.101(1)(d), 420.124, 420.503(5), (16), 420.508(1)(a), 420.609(1)(m), (2)(a), 420.9075(4)(h), 421.05(1), (2), 421.06, 421.07, 421.19(2), 421.30(3), (5), 421.31, 421.33, 421.44(1), 421.50(3), (5), 425.045(2), 425.09(1), 425.10(2), 425.12, 425.20, 430.05(3)(a), 440.02(4), (5), (6), (13)(b), (c), (d), (15)(a), (16), (18), (24), (31)(b), 440.04(1), (3), 440.05(3), 440.06, 440.09(1)(d), (7)(a), 440.091(1), (3), 440.092(3), (4), 440.10(1)(a), (b), (c), (g), 440.105(3)(b), (4)(a), (e), (f), (7), 440.1051(2), 440.107(1), 440.11(1), 440.12(2), 440.14(1)(a), (e), (f), 440.151(1)(a), (b), (3), 440.185(1), (2), 440.19(6), 440.191(2)(b), 440.192(1), (2)(g), 440.20(6), (11)(b), (12)(b), (c), (d), (13), (14), (15)(b), (c), 440.21, 440.25(4)(h), (5)(b), (c), (7), 440.33(1), 440.34(1), (3), (4), 440.38(1)(b), 440.381(6), 440.385(1)(b), (3)(c), (7)(a), 440.386(5)(d), (9)(a), (11)(b), 440.40, 440.4416(2)(c), (d), 440.442(1), (2), (3), (4), (5), (6)(a), 440.51(3), (10), 441.01, 442.018(2)(b), 442.101, 442.102(8), 442.103(3), 442.105(1)(a), (c), 442.106(3)(a), 442.107(2), (4), 442.116(1)(b), (3), 442.119, 443.021, 443.041(1), 443.051(3)(a), 443.071(1), (5)(a), 443.191(2), 443.211(1), (2), 446.045(2)(b), (c), 446.081(2), 447.01(1), 447.04(1)(a), (2)(a), 447.08, 447.09(1), (3), (11), 447.17(1), 447.203(13)(b), (18), 447.208(2), (3)(d), 447.301(4), (5), 447.309(1), (2)(a), 447.401, 447.403(3), (4)(a), 447.405, 447.4095, 447.501(1)(d), (2)(d), 447.507(5), (6)(a), 447.509(3), 447.609, 448.01, 448.045, 448.05, 448.07(1)(c), (2)(a), (3), 448.09(1), 448.103(1)(c), 450.081(5)(b), (c), (6), 450.141(1), 450.151, 450.251, 450.261, 450.30(1), (5), 450.31(2)(b), 450.34(1), 450.35, 452.01, 452.02, 452.03, 454.18, 454.19, 454.23, 454.31, 455.02(1), 455.10, 455.209(1), 455.214(2), 455.2275, 455.2416(1)(b), 455.245(2), 455.2456(2)(d), (e), (f), 456.31(3), 456.32(3), 457.105(2)(a), 457.109(1)(j), (o), (q), (t), (3), 457.116(1)(a), 458.307(4), 458.309(2), 458.310(4), 458.315(1), 458.316(1), (2)(a), 458.3165(1)(b), 458.317(1)(a), (c), (d), (2), 458.319(3), 458.324(2)(a), (c), 458.325(1), 458.327(2)(c), 458.3295(3),

458.335(2), (3), 458.346(2), 459.0075(1)(a), (b), (4), 459.0077(1), 459.008(3), 459.0125(2)(a), (c), 459.013(3)(b), 459.0145(3), 460.402(5), 460.4165(2), (5)(a), (6), (10), 461.004(4), 461.006(2)(b), 461.013(1)(n), (o), (p), (r), (u), (x), (3), (6), 461.0134(1), (2), 462.08, 462.14(1)(k), (p), (q), (r), (s), (v), (y), 462.16, 462.17(3), (5), (6), 462.18(1), 462.19(3), 463.001, 463.002(3)(b), 463.0057(1), (2), 463.006(1)(b), 463.009, 463.012, 463.0135(1), 463.016(1)(e), (i), (o), (s), (3), 465.003(1), (5), (13), 465.007(1)(b), (c), 465.009(1), 465.014, 465.015(2)(a), (3)(a), 465.016(1)(d), (j), (m), (3), 465.017(2), 465.025(2), 465.026(1)(a), (2), 465.0276(1), (2)(a), (3), (4), (5), 465.186(1), 466.002(1), 466.006(2), (3), (4)(b), (c), 466.009(2), (3), 466.0135(3), 466.014, 466.016, 466.017(1), (6), (7), 466.018(1), (2), (4), 466.021, 466.024(5), 466.025(1), 466.026(2)(b), (c), 466.028(1)(n), (o), (p), (q), (s), (x), (y), (bb), (2)(e), (5), 466.031(2), 467.0125(1), (2)(a), 467.013, 467.203(1)(g), 468.1115(2)(c), 468.1135(3), 468.1245(2), 468.1275, 468.1285(1)(d), 468.1655(4)(b), 468.1705(1), 468.1745(1)(c), 468.1755(1)(k), (l), (o), 468.207, 468.209(1), (4), 468.211(1), (2), 468.215(2), (3), 468.217(1)(p), (s), (t), (w), 468.223(1)(b), (c), 468.225(1)(a), (b), 468.304, 468.306(3), 468.3065, 468.307(2)(b), 468.309(5), (6), 468.3095(1), 468.3101(1)(f), 468.314(3), 468.352(3), 468.354(4)(a), (c), 468.36, 468.362(1), 468.365(1)(n), (x), 468.366(1)(d), 468.368(4), (5), (6), 468.383(1), 468.385(2), (3), (4), (5), (6), 468.386(2), 468.387(1), 468.388(3)(b), (5), 468.389(1)(h), 468.395(4), 468.401(3)(c), 468.402(1)(d), (e), (f), (q), (r), 468.403(1), (3)(a), (5), 468.407(3), 468.408(1)(a), 468.531(1)(d), 468.543, 468.551(1)(a), (b), (c), 468.723(6), 470.006(3), 470.007(1)(b), 470.009(2), 470.011(1)(b), 470.019(2)(f), (o), 470.021(2), 470.023, 470.0255(1), 470.026(5), 470.028(3), 470.031(1)(c), 470.032, 470.033, 470.034, 470.036(1)(q), (w), 470.039(2), 471.003(2)(a), (h), (i), (3), 471.005(6), 471.013(1)(a), (b), 471.023(1), (2), (3), 471.025, 471.031(1)(c), 471.033(1)(j), 472.003(2), (3)(a), (b), 472.013(2)(c), (d), (3), 472.017(1), 472.018, 472.021(1), (2), (3), 472.025, 472.031(1)(c), 472.033(4), 473.302(5)(b), 473.303(2), 473.308(3)(b), 473.313(1), 473.315(1), (2), 473.316(1)(c), (4)(b), (5), 473.318, 473.3205, 474.202(10), 474.203(2), (3), (4), (6), 474.207(3)(b), (5), 474.2125(1), 474.213(1)(c), 474.214(1)(h), 474.216, 474.217(1), 475.01(1)(c), (2), 475.011(1), (3), (5), (8)(a), 475.03(1), 475.10, 475.17(1), (2), (4)(c), 475.175(1), 475.180(2)(a), 475.182(1), 475.183(1), 475.22, 475.23, 475.24, 475.25(1)(b), (d), (i), (j), (k), (o), 475.37, 475.42(1)(b), (d), (e), (h), (j), (k), (n), 475.43, 475.451(2), (7), 475.483(1)(d), 475.484(2), 475.486(2), 475.5015, 475.5017(1), 475.613(1)(a), 475.615(4), (5), 475.616, 475.617, 475.619(2), 475.620(1), 475.622, 475.623, 475.624(2), (6), (7), (10), (18), 475.626(1)(b), 475.627(1), (2), 476.054(5), (6), 476.064(1), (3), 476.114(2)(c), 476.134(3), 476.144(4), 476.154(1), 476.204(1)(a), (d), 477.0135(1)(g), 477.015(3), (4), (5), (6), (8), 477.019(2)(c), 477.022(1), (5), 477.029(1)(a), (d), 478.44(4)(a), 478.49, 478.50(3), 478.52(1)(m), (q), (r), 479.16(4), 480.035(3), (4), (5), 480.042(1), (5), 480.046(1)(g), (i), 480.047(1)(a), (d), (e), 481.219(2), (3), (5), (10), 481.221(2), (3), (4), (5), (6), (9), 481.223(1)(d), 481.225(4), 481.2251(1)(c), (j), (l), 481.229(4), 481.301, 481.319(4), (6), 481.321(1), (2), (3), 481.323(1)(b), (c), 481.325(1)(l),

(4), 481.329(4), (5), (6), (7), 482.021(9), (18)(b), (21)(a), 482.091(2)(c), 482.111(5), (6)(a), (b), (10), 482.121(1), 482.132(1), 482.141(4), 482.152, 482.155(2), 482.211(1), (11), 482.226(3), 482.2267(3), 483.23(1)(a), 483.285(8), 483.308, 483.817(1), 483.819(1), 483.821, 483.823, 483.825(2), 483.901(4)(e), (10)(c), (11)(a), (b), (f), 484.011, 484.013(1)(a), (2), 484.014(1)(k), (t), (3), 484.018(1), (2), 484.042(4), 484.0445(1), 484.045(2), 484.051(2), 484.053(1)(c), 484.058, 486.028, 486.031(3)(a), (b), 486.041, 486.051, 486.061, 486.081(1), (3), 486.085(4)(c), 486.102(3)(a), (b), 486.103, 486.104, 486.106, 486.107(1), (3), 486.108(4)(c), 486.125(1)(a), (b), (g) (j), (3), 486.135(1), 486.161(1), (2)(a), 486.171(2), 487.021(8), (22), (30), (41), (48)(b), (49), (65), 487.025(2)(d), (g), (h), 487.049(1), 487.051(1)(a), 487.1585(1), 488.04(1), 489.111(2), 489.113(1), (3)(b), (g), (4)(a), (7)(b), (8), (9), 489.115(4)(a), (5)(b), (c), (6), 489.117(1)(a), (b), 489.1195(1), (2)(e), (3)(a), (d), 489.121, 489.128, 489.133(2), (3), 489.134, 489.141(1)(a), 489.509(2), 489.511(2)(a), 489.513(1), (3)(b), (5), 489.515(1)(b), 489.516(1), (3), 489.521(2), (4), (5), (7)(a), (8), 489.522(1), (2)(b), (3), 489.523, 489.531(1)(b), (c), (3)(d), (k), 489.532, 489.537(3)(e), (4), (8)(a), (b), 489.538, 490.0111, 490.012(1), (2), 490.0121(5), 490.014(2)(a), (b), (e), (f), (3), 490.0141, 490.0143, 490.0147, 491.006(1), 491.0111, 491.012(1)(a), (b), (c), (d), (e), (2), 491.014(3), (4)(a), (b), (5), 491.0141, 491.0143, 491.0147, 491.0149(1), 492.102(3), (4), (7), 492.103(1), 492.105(1)(e), 492.108(1), 492.109(3), 492.111(2), (4), 492.112(1)(c), 492.113(1)(j), 492.116(5), 493.6104(8), 493.6105(1)(a), (3)(a), (b), (c), (d), (e), (f), (h), (i), (5), (6), (9), 493.6106(1)(c), (d), (e), (3), 493.6107(5), 493.6109(2)(b), 493.6113(3), (4), (6), 493.6114, 493.6115(3), (4), (6), (8), (9), (12)(b), 493.6118(1)(c), (d), (i), (p), (q), (u), (4), (6), 493.6119(1), (4), 493.6120(4), 493.6123(2), 493.6304(2)(a), 493.6404(2), 493.6406(2)(a), 494.0013(3), 494.003(1)(e), 494.0031(3), 494.0033(4), 494.0039(3), 494.0041(2)(e), (f), (h), 494.006(1)(d), (i), (j), 494.0061(2), 494.0062(2), 494.0072(2)(e), (f), (h), 495.011(1), (2), (6), (8), (9), 495.021(1)(d), 495.031(1)(c), (2)(d), 495.051(2), 495.101(4)(e), 495.121, 495.151, 496.404(1), (14), 496.405(7), 496.406(1)(a), 496.409(1), 496.410(1), (7)(d), 496.412(1)(a), 496.415(17), 496.425(6), (7)(a), (8), 497.135, 497.225, 497.445(5), 497.527, 498.005(2)(e), (3), (17), (18), 498.021(2), 498.023(2)(c), (3)(d), (4), 498.024(3)(d), 498.027(1)(c), (4), 498.031(3), 498.035(4), 498.037(2)(d), 498.041(1)(c), 498.047(4), 498.051(3)(a), 498.057(1)(a), (2), 498.059, 498.061(3), (4), (5), (6), 499.003(10), (11)(b), (c), 499.005(7), 499.007(12), 499.015(3), (4), 499.02(5)(a), 499.024, 499.028(15), 499.041(1)(f), 499.06(1), (2), (3), 499.063, 499.067(5), 499.069(2), (3), 499.62(1), 499.64(3)(b), (c), (d), 499.65(1), 499.68(1), 499.73(3), 499.76, 500.04(7), 500.11(2), 500.121(1)(c), 500.13(2), 500.172(3), 500.177(2), 500.301(12), 501.001(1)(a), (2)(d), 501.021(2)(a), 501.022(1)(b), (5), 501.031(1), 501.041, 501.045, 501.055(2), 501.059(1)(c), (9)(a), (b), 501.065(2), (6), (7)(a), 501.081(2), 501.091(1), (2), (3)(a), 501.095, 501.105(2), 501.122(3)(a), 501.135(5)(c), (6), 501.138(1), 501.141(1), (2)(a), 501.143(3)(f), (4)(f), (6)(f), 501.160(2), 501.206(1), (2), (4), 501.207(3), 501.2075, 501.2077(2), 501.2105(1), (2), 501.32(3), 501.606(1), 501.607(1)(h),

(2)(a), 501.609(1), 501.611(4), 501.613(1), (2), 501.615(6), (9), 501.617(1), (2), 501.621(4), 501.623(2), 501.922, 501.925(5)(a), 502.032(5), 503.041(2), 504.31(2)(a), (b), 506.01, 506.03, 506.06, 506.09(7), 506.12, 506.16, 506.19, 506.20, 506.24, 506.25, 506.26, 506.27, 506.30, 506.34, 506.35, 506.36, 506.37, 506.38, 506.39, 506.42, 506.43, 506.44, 506.511, 509.111(2), 509.213(3), 509.281(2), 509.504(1), 509.508(3), 514.011(4), 516.02(1), 516.031(4), 516.12(1), 516.16, 516.35(1), 517.021(6), (9), (10), (18), 517.141(10), 517.191(1), (2), 517.311(2), 518.11(4), 520.07(1)(c), (4), (5), 520.08(4), 520.10, 520.34(1)(c), (6)(b), (8), (10), 520.36, 520.61(4), 520.68(2), 520.74(2), (3), 520.76(4), 520.78(4), 520.83(1)(a), 520.88(4), 522.03, 522.06, 523.02, 523.08, 523.09, 523.10, 523.11, 523.13, 523.14, 523.15, 523.18, 523.19, 523.20, 523.21, 525.16(3), 526.01(2)(c), 526.03, 526.06, 526.11, 526.111(1), 526.141(7), 526.312(2)(a), 526.51(1)(a), 526.55(3), 527.021(3), 527.04(1), (2), 527.067(2), 527.09, 527.11(2), 527.16(5), (6), 531.42(2)(a), (3), 531.43, 531.50(1), 532.02, 532.04(1), 533.05, 534.021, 534.041, 534.081(1), 534.52(1), 534.54(2)(a), 535.11(2), (3), (6), (7), 536.13, 536.14, 536.15, 536.18, 538.03(2)(m), 538.09(2), (3), (5)(g), 538.15(1)(c), 538.19(2)(f), 538.20, 538.25(1)(c), 540.08(1)(b), (c), (2), (3)(b), (5), (6), 540.09(4), 542.22(1), (3)(b), (d), 542.235(4), 542.27(3), 542.33(2)(a), 544.04, 544.05, 545.03, 545.04, 545.11, 548.003(3), (4), 548.014(1)(a), (d), 548.022, 548.042, 548.045(1), (3), (4), 548.046(2), 548.047, 548.05(2), 548.052, 548.053, 548.054(1), 548.056(2), 548.057(4), 548.058(1), (2), 548.07, 548.071(6), (9), 549.02, 549.03, 549.06, 549.09(2), 550.0235, 550.0425(1), 550.105(1), (4)(c), 550.125(3)(a), 550.155(6), 550.175, 550.1815(3), 550.334(1), 550.3605, 550.3615(4), 552.093(1), (2), 552.094(3), (5)(b), (c), 552.101, 552.113(1), 552.114, 552.23, 553.03(1), 553.04(1), (3)(a), (b), 553.05(1), 553.11(4), 553.381, 553.74(2), (4), 553.75(1), (2), 553.80(3)(a), 553.851(2)(e), 553.907, 553.993(2), 554.105(2)(d), 556.106(2)(a), (e), 559.21(2), 559.23, 559.27(1), 559.3904(3), 559.544(4), 559.545(3), 559.55(6), 559.565(3), 559.72(3), (4), (5), (7), (8), (15), (16), 559.77, 559.805(1), (3), 559.811(1), 559.813(5), 559.905(3), (5), 559.907(2), 559.909(2), (5), 559.917(1)(a), (2), 559.920(10), 559.921(5)(a), 559.9221(2)(a), (b), 559.9233(3), 559.9236(2), 559.928(8)(d), (e), 559.932(1)(g), 559.933(4), 559.935(1)(a), (6), 560.109(3)(c), 560.118(2)(a), 561.051(1), 561.111, 561.17(1), (4), 561.20(2)(e), 561.22(2)(a), 561.27(1), 561.29(1)(a), (h), (i), (2), (3), 561.32(1), 561.33(1), (2), 561.37, 561.42(4), (5), (10), (11), (12), 561.421, 561.57(2), (4), (5), 561.65(1), 561.68(1), (2), (3), (5), 562.02, 562.03, 562.061, 562.07(5), 562.11(1)(b), (2), 562.111(1), 562.12(1), (3), 562.13(2)(d), (e), 562.131(1), (2), 562.16, 562.18, 562.27(1), (2), 562.28, 562.34(1), 562.41(3), (4), 562.451(1), (2), 562.454(4), 562.47(3), 563.02(2), (3), 563.022(5)(b), (7)(e), (18)(c), (20)(b), (e), 564.02(2), (3)(a), 565.02(9), 565.03(1)(a), 565.11, 567.09, 567.10, 568.06, 568.07(2), 568.08, 568.10, 569.003(2)(b), 570.07(24), 570.0705(5), (6), 570.10(4), 570.11, 570.15(3), 570.16, 570.22, 570.23(1)(e), 570.244(8), 570.248(1)(a), 570.34(1)(a), 570.381(3)(c), 570.382(3)(c), 570.543(2), 570.545, 571.06, 573.103(6), 573.112(2)(b), (d), (3), (5), 573.122, 573.124(5), (8)(b), 574.02, 574.03(2), (3), (6), 574.08, 574.09(2), 574.12(2),

576.111(2), 578.10(3), 578.11(3)(b), 578.26(1)(a), (2), 578.27(1), (3), (4)(b), (c), 580.041(1)(a), 581.031(19), 581.071, 581.122, 581.131(1), (2), 581.141(1), 581.181, 581.185(3)(d), (f), 581.211(1)(c), (e), 582.02, 582.18(1)(a), (b), 582.19(2), (3), 582.23(1), 582.25, 582.26, 582.41, 582.44, 585.006, 585.09, 585.50, 585.53, 585.83(5), 585.88(1)(a), (b), (c), 585.90(4), 586.02(14), 586.03(1), 586.10(15), 586.11(2)(a), 588.07, 588.16, 588.17(1), 588.19, 588.20(1), (2), 589.01(3), 589.02, 589.06, 589.30, 589.32, 589.33, 590.026(5)(b), 590.082(1), (2), 590.12(1)(b), 590.29(1), 590.31, 590.33, 590.34, 591.30, 591.34, 593.107, 593.111(2)(b), 593.116(3), 600.041(6), (7), 600.051(2)(a), 601.04(1)(a), (c), (2)(b), (c), (3), 601.06, 601.08, 601.155(9), 601.28(7), 601.33, 601.39, 601.40, 601.51, 601.54(1), 601.601(1), 601.61(1), (3), 601.641(2), (3), 601.66(3), 601.67(1), 601.68, 601.69, 601.731(1)(d), (2), 601.90(1), 601.96, 601.9910(1)(d), 601.9911, 603.161(3), 603.203(1), (2), (3), 603.204(1), 604.11(2), 604.12(1)(e), 604.15(1), (8)(a), 604.20(3), 604.211, 604.22(1), 604.23, 604.25(1)(a), (d), (g), (2), 604.30(3)(b), 604.32(10), and 604.33, Florida Statutes, and ss. 403.021(11), 403.031(7), 403.0876(3)(b), 403.0885(4), 403.508(4)(e), 403.785, 403.805(2), 403.814(2), 403.9326(1)(e), 404.111(4), 404.131(2), 406.075(1)(d), (f), (2), (3)(a), 408.001(3)(e), 408.40(1), (2)(a), (c), (d), 409.175(2)(g), (3)(e), (11)(a), (14)(a), 409.176(12)(a), 409.2561(2), 409.2598(4)(b), (7), 409.9081(3)(c), 409.910(5), (6)(b), (c), (d), (7)(a), (12)(a), (b), (d), (f), (g), (h), (14), (18), (19), 409.9123, 409.913(1)(b), 410.037, 410.605, 413.011(2), 413.012(2), 413.341(1)(a), (f), 414.095(2)(b), 414.115(2)(a), 414.26, 414.27, 414.28(1), (3), 414.29(2)(a), 414.39(1)(b), (3)(a), (4)(a), 414.41(1), 414.55(2), 415.503(9)(j), (11), 415.504(3), 415.505(1)(h), (i), 415.5055(1)(d), (g), 415.51(1)(a), (2)(h), (4), 420.504(3), (4), 420.9071(3), 430.207, 430.501(3)(b), 440.101(2), 440.102(1)(n), (3)(a), (5)(b), 440.13(2)(c), (4)(b), (c), (5)(a), (b), (d), (9)(c), (d), (f), (12)(a), (13)(b), (c), (d), (e), 440.15(1)(d), (f), (2)(b), (d), (5)(a), (8), (9), (10)(a), (c), (13), 440.39(1), (2), (3), (4), (5), (6), 440.49(1), (4), (5), (6)(a), (9)(a), 440.491(1)(g), (h), 440.50(2), (3), 442.109(1)(b), (c), (d), 443.036(6), (7), (9), (12)(b), (18)(c), (19), (26), (28), (32), (33)(b), 443.091(1), (2), 443.101(1), (2), (3), (4), (5), (7)(b), (8), (9), (10)(b), 443.111(1)(b), (4), (5)(b), (6)(a), (c), (d), (e), (h), (7)(e), (f), 443.131(1), (2), (3)(a), (b), (e), (g), (h), (i), (k), (4)(b), (d), 443.141(3)(a), 443.151(1)(a), (3)(a), (4)(a), (b), (6)(a), (b), (c), (e), 443.171(5)(c), (7), (9), (10), 443.1715(1), 443.221(1)(a), (b), 443.231(2)(d), 446.52, as amended by s. 91, ch. 95-418, and s. 297, ch. 96-406, Laws of Florida, 446.52, as amended by s. 8, ch. 95-394, and s. 296, ch. 96-406, Laws of Florida, 446.602(1), 447.205(1), (2), (5), 447.503(3), (6)(a), 447.605(1), (2), 450.061(1)(g), 450.33(1), (3), (5), (7), (8), (9), (10)(c), 455.213(4), 455.2141(3), 455.217(2), 455.2173(2), 455.225(1), (4), (8), (10), 455.236(4)(j), 455.241(2), 455.261(3)(a), 458.311(1)(f), (2), (3), (4), (9)(a), 458.313(1), (3), (4), 458.3145(2), 458.320(4)(a), (5)(d), (e), (g), (7), 458.331(1)(j), (p), (q), (r), (s), (v), (y), (4), (9), 458.337(1)(a), 458.339, 458.341, 458.347(1)(b), (4)(e), (7)(f), (9)(a), (11), 459.0055(4), 459.0085(4)(a), (5)(d), (e), (g), (7), 459.015(1)(s), (t), (u), (w), (z), (cc), (4), (9), 459.016(1), 459.017, 459.018, 459.022(1)(b), (4)(e), (7)(e), (9)(a), (11), 460.406(1)(b), (c), 460.413(1)(e), (o), (q), (t), (w), (3), (5),

464.009(1), 464.012(1), (4), 464.018(1)(j), 466.004(1), 466.007(3)(a), (4)(b), 466.022(1), 466.0275, 466.0282(1), 466.032(2), (4), 468.302(1), (2), (6)(b), 468.432(1), 470.035, 473.322(1)(d), 474.2185, 475.045(2)(b), (c), (4)(a), (b), (6)(a), 475.612(6), 479.07(2), (3)(b), (8)(b), 479.105(2)(a), 487.031(5), (8), (9), 487.041(3), (7), 487.0615(1)(d), (e), (2)(c), 489.103(2)(a), (3), (4), (9)(b), (11), 489.105(3), (4), (5), 489.119(3)(a), (b), (5)(a), (6), 489.127(1)(a), (c), (f), (5)(d), (k), 489.129(1)(f), (9), 489.131(3)(f), (7)(a), (b), 489.143(2), (6), 489.503(1)(a), (2), (3), (6), (9), 489.505(14), (15), (16), (21), (22), (23), 489.533(1)(k), (7)(b), 490.009(2)(c), (g), (p), 491.009(2)(c), (g), (p), 493.6101(4), (11), (13), 493.6102(1), (2), (3), (4), (6), (13), 493.6121(4), (8)(c), 494.00125(2), 497.002(2), 497.005(17), (24), 497.101(1), 497.127(3), 497.131(1), (8), 497.233(1)(r), 497.407(1), (2)(c), (3), (7), 497.413(9), 497.417(1), (3), (5), 497.419(7), 497.429(7), (9), 497.447(3), 498.025(1)(a), (4), 498.029(3), (4)(a), 499.018(1)(o), (p), 501.017(1)(d), 501.075(4), (7), 501.1375(5), (7)(d), 501.603(2), 501.604(8), (26), 501.605(2)(a), (h), 501.608(2), (3), 501.612(1)(b), (2), 501.93(2)(b), 509.032(4), 517.061(3), (11)(a), (b), 517.12(7)(a), (c), (d), 517.131(3)(b), 517.161(1)(h), (k), (3), 517.2015(2), 519.101(3), (6), 520.9965(2), 542.28(8), (11), (12), 550.2415(3)(c), 553.79(5)(c), (d), (8), (11), 556.105(1)(a), 556.107(1)(e), 561.15(3)(b), 561.19(2)(d), 561.705(6), 561.706(1), 570.02(1), 570.544(10), 570.903(3)(b), 573.123(4), 578.13(2)(c), 578.30(3), 585.01(15), (18), 585.19(2), 585.20, 601.10(9), 601.15(4), (8)(a), (9)(b), 601.152(1)(c), (7), (10)(b), 601.154(2)(c), (4)(a), (b), (c), (e), (9), (13)(a), (b), 602.055(5)(b), (c), and 604.21(1), (4), Florida Statutes (1996 Supplement), pursuant to the directive in s. 1, ch. 93-199, Laws of Florida; removing gender-specific references applicable to human beings from volume 3 of the Florida Statutes without substantive changes in legal effect.

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

Section 1. 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 permit issued pursuant to this section shall not become a vested right in the permittee. The department may revoke any permit issued by it if it finds that the permitholder:

(a) Has submitted false or inaccurate information in his or her application;

Section 2. Subsection (2) of section 403.0877, Florida Statutes, is amended to read:

403.0877 Certification by professionals regulated by the Department of Business and Professional Regulation.—

(2) If an application for a permit or license to conduct an activity regulated under this chapter, chapter 373, chapter 376, or any permitting pro-

gram delegated to a water management district by a state agency, or to undertake corrective action of such activity or program ordered by the department or a water management district, requires the services of a professional as enumerated in subsection (1), the department or governing board of a water management district may require, by rule, in conjunction with such an application or any submittals required as a condition of granting a permit or license, or in conjunction with the order of corrective action, such certification by the professional as is necessary to ensure that the proposed activity or corrective action is designed, constructed, operated, and maintained in accordance with applicable law and rules of the department or district and in conformity with proper and sound design principles, or other such certification by the professional as may be necessary to ensure compliance with applicable law or rules of the department or district. The department or governing board of a water management district may further require as a condition of granting a permit or license, or in conjunction with ordering corrective action that the professional certify upon completion of the permitted or licensed activity or corrective action that such activity or corrective action has, to the best of his or her knowledge, been completed in substantial conformance with the plans and specifications approved by the department or board.

Section 3. Paragraphs (c) and (d) of subsection (3) of section 403.091, Florida Statutes, are amended to read:

403.091 Inspections.—

(3)

(c) The judge shall, before issuing the warrant, have the application for the warrant duly sworn to and subscribed by a representative of the department; and ~~he~~ may receive further testimony from witnesses, supporting affidavits, or depositions in writing to support the application. The affidavit and further proof, if had or required, shall set forth the facts tending to establish the grounds specified in paragraph (b) or the reasons for believing that such grounds exist.

(d) Upon examination of the application and proofs submitted and if satisfied that cause exists for the issuing of the inspection warrant, the judge shall thereupon issue a warrant, signed by him or her with the name of his or her office, to any department representative, which warrant will authorize the representative forthwith to inspect the property described in the warrant.

Section 4. Subsection (2) of section 403.141, Florida Statutes, is amended to read:

403.141 Civil liability; joint and several liability.—

(2) Whenever two or more persons pollute the air or waters of the state in violation of this chapter or any rule, regulation, or order of the department so that the damage is indivisible, each violator shall be jointly and severally liable for such damage and for the reasonable cost and expenses of the state incurred in tracing the source of discharge, in controlling and

abating the source and the pollutants, and in restoring the air, waters, and property, including the animal, plant, and aquatic life of the state, to their former condition. However, if said damage is divisible and may be attributed to a particular violator or violators, each violator is liable only for that damage attributable to his or her violation.

Section 5. Subsection (1) of section 403.321, Florida Statutes, is amended to read:

403.321 Proof of financial responsibility.—

(1) No license shall be issued to any person until he or she has filed with the department proof of ability to respond in damages for liability on account of accidents arising out of the weather modification operations to be conducted by him or her in the amount of \$10,000 because of bodily injury to or death of one person resulting from any one incident, and subject to said limit for one person, in the amount of \$100,000 because of bodily injury to or death of two or more persons resulting from any one incident, and in the amount of \$100,000 because of injury to or destruction of property of others resulting from any one incident.

Section 6. Paragraphs (a) and (b) of subsection (1) of section 403.331, Florida Statutes, are amended to read:

403.331 Issuance of license; suspension or revocation; renewal.—

(1) The department shall issue a license to each applicant who:

(a) By education, skill and experience appears to be qualified to undertake the weather modification operation proposed in his or her application.

(b) Files proof of ~~his~~ financial responsibility as required by s. 403.321.

Section 7. Section 403.341, Florida Statutes, is amended to read:

403.341 Filing and publication of notice of intention to operate; limitation on area and time.—Prior to undertaking any operation authorized by the license, the licensee shall file with the department and cause to be published a notice of intention. The licensee shall then confine his or her activities substantially within the time and area limits set forth in the notice of intention.

Section 8. Subsection (1) of section 403.381, Florida Statutes, is amended to read:

403.381 Record and reports of operations.—

(1) Each licensee shall keep and maintain a record of all operations conducted by him or her pursuant to his or her license showing the method employed, the type and composition of materials used, the times and places of operation, the name and post-office address of each person participating or assisting in the operation other than licensee and such other information as may be required by the department and shall report the same to the department at such times as it may require.

Section 9. Section 403.411, Florida Statutes, is amended to read:

403.411 Penalty.—Any person conducting a weather modification operation without first having procured a license, or who shall make a false statement in his or her application for license, or who shall fail to file any report or reports as required by this act, or who shall conduct any weather modification operation after revocation or suspension of his or her license, or who shall violate any other provision of this act, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; and, if a corporation, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083. Each such violation shall be a separate offense.

Section 10. Paragraph (f) of subsection (2) of section 403.412, Florida Statutes, is amended to read:

403.412 Environmental Protection Act.—

(2)

(f) In any action instituted pursuant to this section, other than an action involving a state NPDES permit authorized under s. 403.0885, the prevailing party or parties shall be entitled to costs and attorney's fees. Any award of attorney's fees in an action involving such a state NPDES permit shall be discretionary with the court. If the court has reasonable ground to doubt the solvency of the plaintiff or the plaintiff's ability to pay any cost or judgment which might be rendered against him or her in an action brought under this section, the court may order the plaintiff to post a good and sufficient surety bond or cash.

Section 11. Paragraphs (c), (f), and (h) of subsection (6) of section 403.413, Florida Statutes, are amended to read:

403.413 Florida Litter Law.—

(6) PENALTIES; ENFORCEMENT.—

(c) Any person who dumps litter in violation of subsection (4) in an amount exceeding 500 pounds in weight or 100 cubic feet in volume or in any quantity for commercial purposes, or dumps litter which is a hazardous waste as defined in s. 403.703, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. In addition, the court may order the violator to:

1. Remove or render harmless the litter that he or she dumped in violation of this section;

2. Repair or restore property damaged by, or pay damages for any damage arising out of, his or her dumping litter in violation of this section; or

3. Perform public service relating to the removal of litter dumped in violation of this section or to the restoration of an area polluted by litter dumped in violation of this section.

(f) If a person sustains damages arising out of a violation of this section that is punishable as a felony, a court, in a civil action for such damages, shall order the person to pay the injured party threefold the actual damages or \$200, whichever amount is greater. In addition, the court shall order the person to pay the injured party's court costs and attorney's fees. A final judgment rendered in a criminal proceeding against a defendant under this section estops the defendant from asserting any issue in a subsequent civil action under this paragraph which he or she would be estopped from asserting if such judgment were rendered in the civil action unless the criminal judgment was based upon a plea of no contest or nolo contendere.

(h) In the criminal trial of a person charged with violating this section, the state does not have the burden of proving that the person did not have the right or authority to dump the litter or raw human waste or that litter or raw human waste dumped on private property causes a public nuisance. The defendant has the burden of proving that he or she had authority to dump the litter or raw human waste and that the litter or raw human waste dumped does not cause a public nuisance.

Section 12. Paragraph (b) of subsection (8) of section 403.415, Florida Statutes, is amended to read:

403.415 Motor vehicle noise.—

(8) REPLACEMENT EQUIPMENT.—

(b) The manufacturer, distributor, or importer, or designated agent thereof, shall file a written certificate with the department that his or her products sold within this state comply with the requirements of this section for their intended applications.

Section 13. Section 403.60, Florida Statutes, is amended to read:

403.60 Environmental Control Compact; execution authorized.—The Governor on behalf of this state is hereby authorized to execute a compact, in substantially the following form, with any one or more of the states of the United States, and the Legislature hereby signifies in advance its approval and ratification of such compact:

MEMBER JURISDICTION.—The environmental compact is entered into with all jurisdictions legally joining therein and enacted into law in the following form:

INTERSTATE ENVIRONMENTAL COMPACT

ARTICLE I

FINDINGS, PURPOSES AND RESERVATIONS OF POWERS.—

A. Findings.—Signatory states hereby find and declare:

1. The environment of every state is affected with local, state, regional and national interests and its protection, under appropriate arrangements for intergovernmental cooperation, is a public purpose of the respective signatories.

2. Certain environmental pollution problems transcend state boundaries and thereby become common to adjacent states requiring cooperative efforts.

3. The environment of each state is subject to the effective control of the signatories, and coordinated, cooperative or joint exercise of control measures is in their common interests.

B. Purposes.—The purposes of the signatories in enacting this compact are:

1. To assist and participate in the national environment protection programs as set forth in federal legislation; to promote intergovernmental cooperation for multistate action relating to environmental protection through interstate agreements; and to encourage cooperative and coordinated environmental protection by the signatories and the Federal Government;

2. To preserve and utilize the functions, powers and duties of existing state agencies of government to the maximum extent possible consistent with the purposes of the compact.

C. Powers of the United States.—

1. Nothing contained in this compact shall impair, affect or extend the constitutional authority of the United States.

2. The signatories hereby recognize the power and right of the Congress of the United States at any time by any statute expressly enacted for that purpose to revise the terms and conditions of its consent.

D. Powers of the states.—Nothing contained in this compact shall impair or extend the constitutional authority of any signatory state, nor shall the police powers of any signatory state be affected except as expressly provided in a supplementary agreement under Article IV.

ARTICLE II

SHORT TITLE, DEFINITIONS, PURPOSES AND LIMITATIONS.—

A. Short title.—This compact shall be known and may be cited as the “Interstate Environmental Compact.”

B. Definitions.—For the purpose of this compact and of any supplemental or concurring legislation enacted pursuant or in relation hereto, except as may be otherwise required by the context:

1. “State” shall mean any one of the 50 states of the United States of America, the Commonwealth of Puerto Rico and the Territory of the Virgin Islands, but shall not include the District of Columbia.

2. “Interstate environment pollution” shall mean any pollution of a stream or body of water crossing or marking a state boundary, interstate air quality control region designated by an appropriate federal agency or solid waste collection and disposal district or program involving the jurisdiction or territories of more than one state.

3. “Government” shall mean the governments of the United States and the signatory states.

4. “Federal Government” shall mean the government of the United States of America and any appropriate department, instrumentality,

agency, commission, bureau, division, branch or other unit thereof, as the case may be, but shall not include the District of Columbia.

5. "Signator" shall mean any state which enters into this compact and is a party thereto.

ARTICLE III

INTERGOVERNMENTAL COOPERATION.—

Agreements with the Federal Government and other agencies.—Signatory states are hereby authorized jointly to participate in cooperative or joint undertakings for the protection of the interstate environment with the Federal Government or with any intergovernmental or interstate agencies.

ARTICLE IV

SUPPLEMENTARY AGREEMENTS, JURISDICTION AND ENFORCEMENT.—

A. Signatories may enter into agreements for the purpose of controlling interstate environmental problems in accordance with applicable federal legislation and under terms and conditions as deemed appropriate by the agreeing states under Paragraph F. and Paragraph H. of this Article.

B. Recognition of existing nonenvironmental intergovernmental arrangements.—The signatories agree that existing federal-state, interstate or intergovernmental arrangements which are not primarily directed to environmental protection purposes as defined herein are not affected by this compact.

C. Recognition of existing intergovernmental agreements directed to environmental objectives.—All existing interstate compacts directly relating to environmental protection are hereby expressly recognized and nothing in this compact shall be construed to diminish or supersede the powers and functions of such existing intergovernmental agreements and the organizations created by them.

D. Modification of existing commissions and compacts.—Recognition herein of multistate commissions and compacts shall not be construed to limit directly or indirectly the creation of additional multistate organizations or interstate compacts, nor to prevent termination, modification, extension, or supplementation of such multistate organizations and interstate compacts recognized herein by the Federal Government or states party thereto.

E. Recognition of future multistate commissions and interstate compacts.—Nothing in this compact shall be construed to prevent signatories from entering into multistate organizations or other interstate compacts which do not conflict with their obligations under this compact.

F. Supplementary agreements.—Any two or more signatories may enter into supplementary agreements for joint, coordinated or mutual environmental management activities relating to interstate pollution problems common to the territories of such states and for the establishment of common or joint regulation, management, services, agencies or facilities for such purposes or may designate an appropriate agency to act as their joint agency

in regard thereto. No supplementary agreement shall be valid to the extent that it conflicts with the purposes of this compact and the creation of a joint agency by supplementary agreement shall not affect the privileges, powers, responsibilities or duties under this compact of signatories participating therein as embodied in this compact.

G. Execution of supplementary agreements and effective date.—The Governor is authorized to enter into supplementary agreements for the state and his or her official signature shall render the agreement immediately binding upon the state; provided that:

1. The legislature of any signatory entering into such a supplementary agreement shall at its next legislative session by concurrent resolution bring the supplementary agreement before it and by appropriate legislative action approve, reverse, modify or condition the agreement of that state.

2. Nothing in this agreement shall be construed to limit the right of Congress by act of law expressly enacted for that purpose to disapprove or condition such a supplementary agreement.

H. Special supplementary agreements.—Signatories may enter into special supplementary agreements with the District of Columbia or foreign nations for the same purposes and with the same powers as under Paragraph F., Article IV, upon the condition that such nonsignatory party accept the general obligations of signatories under this compact. Provided, that such special supplementary agreements shall become effective only after being consented to by the Congress.

I. Jurisdiction of signatories reserved.—Nothing in this compact or in any supplementary agreement thereunder shall be construed to restrict, relinquish or be in derogation of, any power or authority constitutionally possessed by any signatory within its jurisdiction, except as specifically limited by this compact or a supplementary agreement.

J. Complementary legislation by signatories.—Signatories may enact such additional legislation as may be deemed appropriate to enable its officers and governmental agencies to accomplish effectively the purposes of this compact and supplementary agreements recognized or entered into under the terms of this Article.

K. Legal rights of signatories.—Nothing in this compact shall impair the exercise by any signatory of its legal rights or remedies established by the United States Constitution or any other laws of this nation.

ARTICLE V

CONSTRUCTION, AMENDMENT AND EFFECTIVE DATE.—

A. Construction.—It is the intent of the signatories that no provision of this compact or supplementary agreement entered into hereunder shall be construed as invalidating any provision of law of any signatory and that nothing in this compact shall be construed to modify or qualify the authority of any signatory to enact or enforce environmental protection legislation within its jurisdiction and not inconsistent with any provision of this compact or a supplementary agreement entered into pursuant hereto.

B. Severability.—The provisions of this compact or of agreements hereunder shall be severable and if any phrase, clause, sentence or provisions of this compact, or such an agreement is declared to be contrary to the constitution of any signatory or of the United States or is held invalid, the constitutionality of the remainder of this compact or of any agreement and the applicability thereof to any participating jurisdiction, agency, person or circumstance shall not be affected thereby and shall remain in full force and effect as to the remaining participating jurisdictions and in full force and effect as to the signatory affected as to all severable matters. It is the intent of the signatories that the provisions of this compact shall be reasonably and liberally construed in the context of its purposes.

C. Amendments.—Amendments to this compact may be initiated by legislative action of any signatory and become effective when concurred in by all signatories and approved by Congress.

D. Effective date.—This compact shall become binding on a state when enacted by it into law and such state shall thereafter become a signatory and party hereto with any and all states legally joining herein.

E. Withdrawal from the compact.—A state may withdraw from this compact by authority of an act of its legislature 1 year after it notifies all signatories in writing of an intention to withdraw from the compact. Provided, withdrawal from the compact affects obligations of a signatory imposed on it by supplementary agreements to which it may be a party only to the extent and in accordance with the terms of such supplementary agreements.

Section 14. Subsection (5) of section 403.709, Florida Statutes, is amended to read:

403.709 Solid Waste Management Trust Fund; use of waste tire fee monies; waste tire site management.—

(5) The department may impose a lien on the real property on which the waste tire site is located and the waste tires equal to the estimated cost to bring the tire site into compliance, including attorney's fees and court costs. Any property owner which has such a lien imposed may release her or his property from any lien claimed under this subsection by filing with the clerk of the circuit court a cash or surety bond, payable to the department in the amount of the estimated cost of bringing the tire site into compliance with department rules, including attorney's fees and court costs, or the value of the property after the abatement action is complete, whichever is less.

Section 15. Subsection (3) of section 403.716, Florida Statutes, is amended to read:

403.716 Training of operators of solid waste management and other facilities.—

(3) A person may not perform the duties of an operator of a landfill after July 1, 1991, or perform the duties of an operator of a waste-to-energy facility, biomedical waste incinerator, or mobile soil thermal treatment unit or facility after July 1, 1994, unless she or he has completed an operator

training course approved by the department or she or he has qualified as an interim operator in compliance with requirements established by the department by rule. An owner of a landfill, waste-to-energy facility, biomedical waste incinerator, or mobile soil thermal treatment unit or facility may not employ any person to perform the duties of an operator unless such person has completed an approved landfill, waste-to-energy facility, biomedical waste incinerator, or mobile soil thermal treatment unit or facility operator training course, as appropriate, or has qualified as an interim operator in compliance with requirements established by the department by rule. The department may establish by rule operator training requirements for other solid waste management facilities and facility operators.

Section 16. Subsection (1) of section 403.7185, Florida Statutes, is amended to read:

403.7185 Lead-acid battery fees.—

(1) For the privilege of engaging in business, a fee for each lead-acid battery sold at retail is imposed on any person engaging in the business of making retail sales of lead-acid batteries within this state. Beginning October 1, 1989, and thereafter, such fee shall be imposed at the rate of \$1.50 for each lead-acid battery sold. However, the fee shall not be imposed on any battery which has previously been taxed pursuant to s. 206.9935(2), provided the person claiming exemption from the tax can document payment of such tax. The fee imposed shall be paid to the Department of Revenue on or before the 20th day of the month following the calendar month in which the sale occurs. The department may authorize a quarterly return under the conditions described in s. 212.11(1)(c). A dealer selling motor vehicles, vessels, or aircraft at retail can purchase lead-acid batteries exempt as a sale for resale by presenting a sales tax resale certificate. However, if a dealer thereafter withdraws any such battery from inventory to put into a new or used motor vehicle, vessel, or aircraft for sale, to use on her or his own motor vehicle, vessel, or aircraft, to give away, or any purpose other than for resale, the dealer will owe the fee at the time the battery is withdrawn from inventory. If the dealer sells the battery at retail, that sale will be subject to the fee. If the dealer sells it to a purchaser who presents her or him a sales tax resale certificate, the dealer will owe no fee. The terms “sold at retail” and “retail sales” do not include the sale of lead-acid batteries to a person solely for the purpose of resale; however, a subsequent retail sale in this state is subject to the fee. Such fee shall be subject to all applicable taxes imposed in part I of chapter 212. The provisions of s. 212.07(4) shall not apply to the provisions of this section. When a sale of a lead-acid battery, upon which the fee has been paid, is canceled or the battery is returned to the seller, and the sale price, taxes, and fees are refunded in full to the purchaser, the seller may take credit for the fee previously paid. If, instead of refunding the purchase price of the battery, the customer is given a new battery in exchange for the returned battery, the dealer cannot take credit for the fee on the returned battery, but no fee is due on the new battery that is given in exchange. However, no credit shall be taken by the dealer for returns resulting in partial refunds or partial credits on purchase of replacement batteries.

Section 17. Paragraph (h) of subsection (6) of section 403.721, Florida Statutes, is amended to read:

403.721 Standards, requirements, and procedures for generators and transporters of hazardous waste and owners and operators of hazardous waste facilities.—

(6) The department, with respect to owners and operators of hazardous waste disposal, storage, or treatment facilities, and with respect to such facilities, shall adopt rules governing:

(h) Corrective action at a hazardous waste facility which shall be taken beyond a facility boundary where necessary to protect human health and the environment, unless the owner or operator demonstrates that despite her or his best efforts she or he was unable to obtain the necessary permission to undertake such action.

Section 18. Subsection (2) of section 403.809, Florida Statutes, is amended to read:

403.809 Environmental districts; establishment; managers; functions.—

(2) There shall be a manager for each environmental district who shall be appointed by, and serve at the pleasure of, the secretary. The district manager shall maintain his or her office in the environmental district center, which shall be collocated with an office of a water management district. Each branch office shall have a branch office manager. The water management districts are encouraged to collocate part of their permitting operations with the branch offices of the department to the maximum extent practicable.

Section 19. Subsection (4) of section 403.862, Florida Statutes, is amended to read:

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

(4) If the department determines that a county health department or other unit of the Department of Health and Rehabilitative Services is not performing its public water supply responsibilities satisfactorily, the secretary of the department shall certify such determination in writing to the Secretary of Health and Rehabilitative Services. The Secretary of Health and Rehabilitative Services shall evaluate the determination of the department and shall inform the secretary of the department of his or her evaluation. Upon concurrence, the Secretary of Health and Rehabilitative Services shall take immediate corrective action.

Section 20. Section 403.905, Florida Statutes, is amended to read:

403.905 Removal of fill on sovereignty lands.—The department or the Board of Trustees of the Internal Improvement Trust Fund has the authority to direct an abutting upland owner to remove from submerged sover-

eighty lands or state-owned lands any fill created in violation of ss. 403.91-403.929 or part IV of chapter 373, except that the department or the board may consider the time at which the submerged land was filled, the length of upland ownership by the current owner, and any other equitable consideration. In the event that the abutting upland owner does not remove such fill as directed, the department or board may remove it at its own expense, and the costs of removal will become a lien upon the property of such abutting upland owner. However, the department and board may, if they choose, allow such fill to remain as state-owned land and may employ a surveyor to determine the boundary between such state land and that of the abutting upland owner. The amount of the cost of such survey will become a lien on the property of the abutting upland owner. Nothing herein may be construed to grant the department or the board authority to direct an upland owner to adjust, alter, or remove silt, fill, or other solid material which has accumulated or has been deposited seaward of his or her property, through no fault of the owner.

Section 21. Paragraph (c) of subsection (2) and paragraphs (g) and (h) of subsection (3) of section 404.056, Florida Statutes, are amended to read:

404.056 Environmental radiation standards and programs; radon protection.—

(2) FLORIDA COORDINATING COUNCIL ON RADON PROTECTION.—

(c) Organization.—The council shall be chaired by the Secretary of Community Affairs or his or her authorized designee. A majority of the membership of the council shall constitute a quorum for the conduct of business. The chair ~~chairman~~ shall be responsible for recording and distributing to the members a summary of the proceedings of all council meetings. The council shall meet within 90 days after the effective date of this act for the purpose of organizing, and at least semiannually or more frequently as needed. Members of the council shall not receive compensation for their services, but shall be entitled to reimbursement for necessary travel expenses, pursuant to s. 112.061, from the funds derived from surcharges collected pursuant to s. 553.721. The establishment of the council shall not impede the initiation of building code research and development.

(3) CERTIFICATION.—

(g) A certificateholder in good standing remains in good standing when he or she becomes a member of the Armed Forces of the United States on active duty without payment of renewal fees as long as he or she is a member of the Armed Forces on active duty and for a period of 6 months after his or her discharge from active duty, if he or she is not engaged in practicing radon measurement or radon mitigation in the private sector for profit. The certificateholder must pay a renewal fee to renew the certificate.

(h) A certificateholder who is in good standing remains in good standing if he or she is absent from the state because of his or her spouse's active duty with the Armed Forces of the United States. The certificateholder remains in good standing without payment of renewal fees as long as his or her

spouse is a member of the Armed Forces on active duty and for a period of 6 months after the spouse's discharge from active duty, if the certificate-holder is not engaged in practicing radon measurement or radon mitigation in the private sector for profit. The certificateholder must pay a renewal fee to renew the certificate.

Section 22. Subsection (2) of section 404.161, Florida Statutes, is amended to read:

404.161 Penalties.—

(2) Any person who interferes with, hinders, or opposes any agent, officer, or member of the department in the discharge of his or her duties under this chapter is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 23. Subsection (2) of section 404.22, Florida Statutes, is amended to read:

404.22 Radiation machines and components; inspection.—

(2) Any person who enters the state with a radiation machine or component owned by him or her for the purpose of installing and utilizing the radiation machine shall register the radiation machine with the Department of Health and Rehabilitative Services. The department shall inspect the radiation machine to determine its compliance with the standards and shall approve or disapprove the radiation machine or shall order adjustments to the radiation machine in accordance with the provisions of subsection (1).

Section 24. Section 404.30, Florida Statutes, is amended to read:

404.30 Southeast Interstate Low-Level Radioactive Waste Management Compact; party state.—The Southeast Interstate Low-Level Radioactive Waste Management Compact is enacted into law and entered into by the state as a party and is in full force and effect between the state and any other states joining therein in accordance with the terms of the compact, which is substantially as follows:

ARTICLE I

POLICY AND PURPOSE.—

(1) There is hereby created the Southeast Interstate Low-Level Radioactive Waste Management Compact. The party states recognize and declare that each state is responsible for providing for the availability of capacity either within or outside the state for the disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of defense activities of the Federal Government or federal research and development activities. They also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis. The party states further recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act, 94 Stat. 3347, has provided for and encouraged the development of low-level radioactive waste

compacts as a tool for disposal of such waste. The party states recognize that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to dispose of such waste be properly provided.

(2) It is the policy of the party states to:

(a) Enter into a regional low-level radioactive waste management compact for the purpose of providing the instrument and framework for a cooperative effort;

(b) Provide sufficient facilities for the proper management of low-level radioactive waste generated in the region;

(c) Promote the health and safety of the region;

(d) Limit the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region;

(e) Encourage the reduction of the amounts of low-level radioactive waste generated in the region;

(f) Distribute the costs, benefits, and obligations of successful low-level radioactive waste management equitably among the party states; and

(g) Ensure the ecological and economical management of low-level radioactive waste.

(3) Implicit in the congressional consent to this compact is the expectation by the Congress and the party states that the appropriate federal agencies will actively assist the Southeast Interstate Low-Level Radioactive Waste Commission and the individual party states to this compact by:

(a) Expeditious enforcement of federal rules, regulations, and laws;

(b) Imposing sanctions against those found to be in violation of federal rules, regulations, and laws;

(c) Timely inspection of their licensees to determine their capability to adhere to such rules, regulations, and laws; and

(d) Timely provision of technical assistance to this compact in carrying out their obligations under the Low-Level Radioactive Waste Policy Act, as amended.

ARTICLE II

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

(1) “Commission” or “compact commission” means the Southeast Interstate Low-Level Radioactive Waste Management Commission.

(2) “Facility” means a parcel of land, together with the structures, equipment, and improvements thereon or appurtenant thereto, which is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste.

(3) “Generator” means any person who produces or possesses low-level radioactive waste in the course of or as an incident to manufacturing, power

generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity. This term does not include persons who provide a service to generators by arranging for the collection, transportation, storage, or disposal of waste with respect to such waste generated outside the region.

(4) “High-level waste” means irradiated reactor fuel, liquid waste from reprocessing irradiated reactor fuel, solids into which such liquid wastes have been converted, and other high-level radioactive waste as defined by the United States Nuclear Regulatory Commission.

(5) “Host state” means any state in which a regional facility is situated or is being developed.

(6) “Low-level radioactive waste” or “waste” means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in s. 11(e)(2) of the Atomic Energy Act of 1954 or as may be further defined by federal law or regulation.

(7) “Party state” means any state which is a signatory party to this compact.

(8) “Person” means any individual, corporation, business enterprise, or other legal entity, either public or private.

(9) “Region” means the collective party states.

(10) “Regional facility” means:

(a) A facility as defined in this section which has been designated, authorized, accepted, or approved by the commission to receive waste; or

(b) The disposal facility in Barnwell County, South Carolina, owned by the State of South Carolina and as licensed for the burial of low-level radioactive waste on July 1, 1982; but in no event shall this disposal facility serve as a regional facility beyond December 31, 1992.

(11) “State” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, or any other territorial possession of the United States.

(12) “Transuranic waste” means waste material containing transuranic elements with contamination levels as determined by the regulations of:

(a) The United States Nuclear Regulatory Commission; or

(b) Any host state, if it is an agreement state under s. 274 of the Atomic Energy Act of 1954.

(13) “Waste management” means the storage, treatment, or disposal of waste.

ARTICLE III

RIGHTS AND OBLIGATIONS.—The rights granted to the party states by this compact are additional to the rights enjoyed by sovereign states, and nothing in this compact shall be construed to infringe upon, limit, or abridge those rights.

(1) Subject to any license issued by the United States Nuclear Regulatory Commission or a host state, each party state shall have the right to have all wastes generated within its borders stored, treated, or disposed of, as applicable, at regional facilities and additionally shall have the right of access to facilities made available to the region through agreements entered into by the commission pursuant to article IV(5)(i). The right of access by a generator within a party state to any regional facility is limited by its adherence to applicable state and federal rules, regulations, and laws.

(2) If no operating regional facility is located within the borders of a party state and the waste generated within its borders must therefore be stored, treated, or disposed of at a regional facility in another party state, the party state without such facilities may be required by the host state or states to establish a mechanism which provides compensation for access to the regional facility according to terms and conditions established by the host state or states and approved by a two-thirds vote of the commission.

(3) Each party state must establish the capability to regulate, license, and ensure the maintenance and extended care of any facility within its borders. Host states are responsible for the availability, the subsequent postclosure observation and maintenance, and the extended institutional control of their regional facilities in accordance with the provisions of article V(2).

(4) Each party state must establish the capability to enforce any applicable federal or state rules, regulations, and laws pertaining to the packaging and transportation of waste generated within or passing through its borders.

(5) Each party state must provide to the commission annually any data and information necessary to the implementation of the responsibilities of the commission. Each party state shall establish the capability to obtain any data and information necessary to meet this obligation.

(6) Each party state must, to the extent authorized by federal law, require generators within its borders to use the best available waste management technologies and practices to minimize the volume of wastes requiring disposal.

ARTICLE IV

THE COMMISSION.—

(1) There is hereby created the Southeast Interstate Low-Level Radioactive Waste Management Commission (the “commission” or “compact commission”). The commission shall consist of two voting members from each party state to be appointed according to the laws of each state. The appointing authorities of each state must notify the commission in writing of the identity of its members and any alternates. An alternate may act on behalf of the member only in the member’s absence.

(2) Each commission member is entitled to one vote. No action of the commission shall be binding unless a majority of the total membership votes in the affirmative, or unless a greater than majority vote is specifically required by any other provision of this compact.

(3) The commission must elect from among its members a presiding officer. The commission shall adopt and publish, in convenient form, bylaws which are consistent with this compact.

(4) The commission must meet at least once a year and shall also meet upon the call of the presiding officer, by petition of a majority of the party states, or upon the call of a host state. All meetings of the commission must be open to the public.

(5) The commission has the following duties and powers:

(a) To receive and approve the application of a nonparty state to become an eligible state in accordance with article VII(2).

(b) To receive and approve the application of an eligible state to become a party state in accordance with article VII(3).

(c) To submit an annual report and other communications to the governors and to the presiding officers of each body of the legislatures of the party states regarding the activities of the commission.

(d) To develop and use procedures for determining, consistent with considerations for public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region.

(e) To provide the party states with reference guidelines for establishing the criteria and procedures for evaluating alternative locations for emergency or permanent regional facilities.

(f) To develop and adopt, within 1 year after the commission is constituted as provided for in article VII, procedures and criteria for identifying a party state as a host state for a regional facility as determined pursuant to the requirements of this article. In accordance with these procedures and criteria, the commission shall identify a host state for the development of a second regional disposal facility within 3 years after the commission is constituted as provided for in article VII(4) and shall seek to ensure that such facility is licensed and ready to operate as soon as required but in no event later than 1991.

1. In developing criteria, the commission must consider the following:

- a. The health, safety, and welfare of the citizens of the party states;
- b. The existence of regional facilities within each party state;
- c. The minimization of waste transportation;
- d. The volume and types of wastes generated within each party state; and
- e. The environmental, economic, and ecological impacts on the air, land, and water resources of the party states.

2. The commission shall conduct such hearings; require such reports, studies, evidence, and testimony; and do what is required by its approved procedures in order to identify a party state as a host state for a needed regional facility.

(g) To designate, in accordance with the procedures and criteria developed pursuant to paragraph (f), by a two-thirds vote, a host state for the establishment of a needed regional facility. The commission shall not exercise this authority unless the party states have failed voluntarily to pursue the development of such facility. The commission shall have the authority to revoke the membership of a party state that willfully creates barriers to the siting of a needed regional facility.

(h) To require of and obtain from party states, eligible states seeking to become party states, and nonparty states seeking to become eligible states data and information necessary to the implementation of commission responsibilities.

(i) Notwithstanding any other provision of this compact, to enter into agreements with any person, state, or similar regional body or group of states for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. The authorization to import shall require a two-thirds vote of the commission, including an affirmative vote of both representatives of a host state in which any affected regional facility is located. This shall be done only after an assessment of the capability of the affected facility to handle such waste.

(j) To act or appear on behalf of any party state or states, only upon written request of both members of the commission for each such state, as an intervenor or party in interest before the Congress, a state legislature, any court of law, or any federal, state, or local agency, board, or commission which has jurisdiction over the management of wastes. The authority to act, intervene, or otherwise appear shall be exercised by the commission only after approval by a majority vote of the commission.

(k) To revoke the membership of a party state in accordance with article VII(6).

(6) The commission may establish any advisory committees it deems necessary for the purpose of advising the commission on any matters pertaining to the management of low-level radioactive waste.

(7) The commission may appoint or contract for and compensate a limited staff necessary to carry out its duties and functions. The staff shall serve at the pleasure of the commission irrespective of the civil service, personnel, or other merit laws of any of the party states or of the Federal Government and shall be compensated from funds of the commission. In selecting any staff, the commission shall assure that the staff has adequate experience and formal training to carry out such functions as may be assigned to it by the commission. If the commission has a headquarters, it shall be in a party state.

(8) Funding for the commission shall be provided as follows:

(a) Each eligible state, upon becoming a party state, shall pay \$25,000 to the commission which shall be used for costs of the services of the commission.

(b) Each state hosting a regional disposal facility shall annually levy special fees or surcharges on all users of such facility, based upon the volume of waste disposed of at such facility, the total of which:

1. Must be sufficient to cover the annual budget of the commission;
2. Must represent the financial commitments of all party states to the commission; and
3. Must be paid to the commission, provided, however, that each host state collecting such fees or surcharges may retain a portion of the collection sufficient to cover the administrative costs of such collection and that the remainder is sufficient only to cover the approved annual budget of the commission.

(c) The commission must set and approve its first annual budget as soon as practicable after its initial meeting. Host states for disposal facilities must begin imposition of the special fees and surcharges provided for in this section as soon as practicable after becoming party states and must remit to the commission funds resulting from collection of such special fees and surcharges within 60 days of their receipt.

(9) The commission must keep accurate accounts of all receipts and disbursements. An independent certified public accountant shall annually audit all receipts and disbursements of commission funds and submit an audit report to the commission. Such audit report shall be made a part of the annual report of the commission required by paragraph (5)(c).

(10) The commission may accept for any of its purposes and functions any and all donations, grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state or the United States or any subdivision or agency thereof, any interstate agency, or any institution, person, firm, or corporation and may receive, utilize, and dispose of the same. The nature, amount, and condition, if any, attendant upon any donation or grant accepted pursuant to this subsection, together with the identity of the donor, grantor, or lender, shall be detailed in the annual report of the commission.

- (11) The commission is not responsible for any costs associated with:
- (a) The creation of any facility;
 - (b) The operation of any facility;
 - (c) The stabilization and closure of any facility;
 - (d) The postclosure observation and maintenance of any facility; or
 - (e) The extended institutional control after postclosure observation and maintenance of any facility.

(12) As of January 1, 1986, the management of wastes at regional facilities is restricted to wastes generated within the region, and to wastes generated within nonparty states when authorized by the commission pursuant to the provisions of this compact. After January 1, 1986, the commission may prohibit the exportation of waste from the region for the purposes of management.

(13)(a) Except as specifically provided in this compact, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act, omission, or course of conduct or on account of any causal or other relationship. Generators, transporters of wastes, and owners and operators

of sites shall be liable for their acts, omissions, conduct, or relationships in accordance with all laws relating thereto.

(b) The commission herein established is a legal entity separate and distinct from the party states, capable of acting in its own behalf, and is liable for its actions. Liabilities of the commission shall not be deemed liabilities of the party states. Members of the commission shall not be personally liable for actions taken by them in their official capacities.

ARTICLE V

DEVELOPMENT AND OPERATION OF FACILITIES.—

(1) Any party state which becomes a host state in which a regional facility is operated shall not be designated by the compact commission as a host state for an additional regional facility until each party state has fulfilled its obligation, as determined by the commission, to have a regional facility operated within its borders.

(2) A host state desiring to close a regional facility located within its borders may do so only after notifying the commission in writing of its intention to do so and the reasons therefor. Such notification shall be given to the commission at least 4 years prior to the intended date of closure. Notwithstanding the 4-year notice requirement provided in this subsection, a host state is not prevented from closing its facility or establishing conditions of facility use and operations as necessary for protection of the health and safety of its citizens. A host state may terminate or limit access to its regional facility if it determines that the Congress has materially altered the conditions of this compact.

(3) Each party state designated as a host state for a regional facility shall take appropriate steps to ensure that an application for a license to construct and operate a facility of the designated type is filed with and issued by the appropriate authority.

(4) No party state shall have any form of arbitrary prohibition on the treatment, storage, or disposal of low-level radioactive waste within its borders.

(5) No party state shall be required to operate a regional facility longer than a 20-year period or to dispose of more than 32,000,000 cubic feet of low-level radioactive waste, whichever first occurs.

ARTICLE VI

OTHER LAWS, RULES, AND REGULATIONS.—

(1) Nothing in this compact shall be construed to:

(a) Abrogate or limit the applicability of any act of Congress or diminish or otherwise impair the jurisdiction of any federal agency expressly conferred thereon by the Congress;

(b) Abrogate or limit the regulatory responsibility and authority of the United States Nuclear Regulatory Commission or of an agreement state under s. 274 of the Atomic Energy Act of 1954 in which state a regional facility is located;

(c) Make inapplicable to any person or circumstance any other law of a party state which is not inconsistent with this compact;

(d) Make unlawful the continued development and operation of any facility already licensed for development or operation on the effective date of this compact, except that any such facility shall comply with articles III, IV, and V and shall be subject to any action lawfully taken pursuant thereto;

(e) Prohibit any storage or treatment of waste by the generator on its own premises;

(f) Affect any judicial or administrative proceeding pending on the effective date of this compact;

(g) Alter the relations between, and the respective internal responsibilities of, the government of a party state and its subdivisions;

(h) Affect the generation, treatment, storage, or disposal of waste generated by the atomic energy defense activities of the secretary of the United States Department of Energy or federal research and development activities as defined in 94 Stat. 3347; and

(i) Affect the rights and powers of any party state and its political subdivisions to regulate and license any facility within its borders or to affect the rights and powers of any party state and its political subdivisions to tax or impose fees on the waste managed at any facility within its borders.

(2) No party state shall pass any law or adopt any rule or regulation which is inconsistent with this compact. To do so may jeopardize the membership status of the party state.

(3) Upon formation of the compact, no law, rule, or regulation of a party state or of any subdivision or instrumentality thereof may be applied so as to restrict or make more inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.

(4) Restrictions of waste management of regional facilities pursuant to article IV(12) shall be enforceable as a matter of state law.

ARTICLE VII

ELIGIBLE PARTIES; WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION.—

(1) This compact shall have as initially eligible parties the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

(2) Any state not expressly declared eligible to become a party state to this compact in subsection (1) may petition the commission, once constituted, to be declared eligible. The commission may establish such conditions as it deems necessary and appropriate to be met by a state wishing to become eligible to become a party state to this compact pursuant to the provisions of this article. Upon satisfactorily meeting such conditions and upon the affirmative vote of two-thirds of the commission, including the affirmative vote of both representatives of a host state in which any affected regional facility is located, the petitioning state shall be eligible to become

a party state to this compact and may become a party state in the same manner as those states declared eligible in subsection (1).

(3) Each state eligible to become a party state to this compact shall be declared a party state upon enactment of this compact into law by the state and upon payment of the fees required by article IV(8)(a). The commission shall be the sole judge of the qualifications of the party states and of its members and of their compliance with the conditions and requirements of this compact and the laws of the party states relating to the enactment of this compact.

(4)(a) The first three states eligible to become party states to this compact which enact this compact into law and appropriate the fees required by article IV(8)(a) shall immediately, upon the appointment of their commission members, constitute themselves as the Southeast Low-Level Radioactive Waste Management Commission, shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall do those things necessary to organize the commission and implement the provisions of this compact.

(b) All succeeding states eligible to become party states to this compact shall be declared party states pursuant to the provisions of subsection (3).

(c) The consent of the Congress shall be required for full implementation of this compact. The provisions of article V(4) shall not become effective until the effective date of the import ban authorized by article IV(12) as approved by the Congress. The Congress may by law withdraw its consent only every 5 years.

(5) No state which holds membership in any other regional compact for the management of low-level radioactive waste may be considered by the commission for status as an eligible state or as a party state.

(6) Any party state which fails to comply with the provisions of this compact or to fulfill the obligations incurred by becoming a party state to this compact may be subject to sanctions by the commission, including suspension of its rights under this compact and revocation of its status as a party state. Any sanction shall be imposed only upon the affirmative vote of at least two-thirds of the commission members. The revocation of status as a party state may take effect on the date of the meeting at which the commission approves the resolution imposing such sanction, but in no event shall revocation take effect later than 90 days from the date of such meeting. The rights and obligations incurred by being declared a party state to this compact shall continue until the effective date of the sanction imposed or as provided in the resolution of the commission imposing the sanction. The commission must, as soon as practicable after the meeting at which a resolution revoking status as a party state is approved, provide written notice of the action along with a copy of the resolution to the governors, the presidents of the senates, and the speakers of the houses of representatives of the party states, as well as to the chairs ~~chairmen~~ of the appropriate committees of the Congress.

(7) Subject to the provisions of subsection (8), any party state may withdraw from this compact by enacting a law repealing the compact; however, if a regional facility is located within such state, such regional facility shall

remain available to the region for 4 years after the date the commission receives notification in writing from the governor of such party state of the rescission of the compact. The commission, upon receipt of such notification, shall, as soon as practicable, provide copies of such notification to the governors, the presidents of the senates, and the speakers of the houses of representatives of the party states, as well as to the chairs ~~chairmen~~ of the appropriate committees of the Congress.

(8) The right of a party state to withdraw pursuant to subsection (7) shall terminate 30 days following the commencement of operation of the second host state disposal facility. Thereafter, a party state may withdraw only with the unanimous approval of the commission and with the consent of Congress. For purposes of this section, the low-level radioactive waste disposal facility located in Barnwell County, South Carolina, shall be considered the first host state disposal facility.

(9) This compact may be terminated only by the affirmative action of the Congress or by the rescission of all laws enacting the compact in each party state.

ARTICLE VIII

SEVERABILITY AND CONSTRUCTION.—The provisions of this compact shall be severable; and if any phrase, clause, sentence, or provision of this compact is declared by a court of competent jurisdiction to be contrary to the constitution of any participating state or to the Constitution of the United States, or the applicability thereof to any other government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If any provision of this compact is held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters. The provisions of this compact shall be liberally construed to give effect to the purposes thereof.

ARTICLE IX

PENALTIES.—

(1) Each party state, consistent with its own laws, shall prescribe and enforce penalties against any person not an official of another state for violation of any provision of this compact.

(2) Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws, rules, and regulations can result in imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

Section 25. Paragraphs (b) and (c) of subsection (1) and subsection (2) of section 406.02, Florida Statutes, are amended to read:

406.02 Medical Examiners Commission; membership; terms; duties; staff.—

(1) There is created the Medical Examiners Commission within the Department of Law Enforcement. The commission shall consist of nine persons appointed or selected as follows:

(b) One member shall be the Attorney General or her or his designated representative.

(c) One member shall be the Deputy Assistant Secretary for Health of the Department of Health and Rehabilitative Services or her or his designated representative.

(2) The term of office of the physicians appointed to the commission shall be 4 years. The term of office of the state attorney, public defender, sheriff, and county commissioner each shall be 4 years unless she or he leaves that office sooner, in which case her or his appointment will terminate. The term of office of the funeral director shall be 4 years. Upon the expiration of the present terms of office, the Governor shall appoint two members for terms of 4 years, two members for terms of 3 years, two members for terms of 2 years, and one member for a term of 1 year. An appointment to fill a vacancy shall be for the unexpired portion of the term.

Section 26. Section 406.03, Florida Statutes, is amended to read:

406.03 Organization and meetings of commission.—The commission shall annually select a chair ~~chairman~~ from among its own membership and shall meet at least four times each year and on the call of the chair ~~chairman~~.

Section 27. Subsection (2) of section 406.06, Florida Statutes, is amended to read:

406.06 District medical examiners; associates.—

(2) The district medical examiner may appoint as many physicians as associate medical examiners as may be necessary to provide service at all times and all places within the district. Associate medical examiners shall serve at the pleasure of the district medical examiner. The district medical examiner shall file an affidavit with the supervisor of elections in the county in which she or he resides assuring that associate medical examiners have no conflicting financial interests or clients represented before agencies pursuant to s. 112.3145.

Section 28. Subsections (2), (3), (4), and (5) of section 406.08, Florida Statutes, are amended to read:

406.08 Payment of fees, salaries, and expenses; transportation costs; facilities.—

(2) In the event that an examination or autopsy is performed by the district medical examiner or his or her associate upon a body when the death occurred outside the ~~his~~ district, the governmental body requesting the examination or autopsy shall pay the fee for such services.

(3) When a body is transported to the district medical examiner or his or her associate, transportation costs, if any, shall be borne by the county in which the death occurred. Nothing within this chapter shall preclude payment for services to the district medical examiner by the state, either in part or on a matching basis.

(4) Notwithstanding any provision of law to the contrary, if an examination, investigation, or autopsy is performed by the district medical examiner or his or her associate upon the body of a person who died while in the custody of a facility or institution operated by a state agency, that state agency shall pay for such services and for any costs of transporting the body to the district medical examiner.

(5) Autopsy and laboratory facilities utilized by the district medical examiner or his or her associates may be provided on a permanent or contractual basis by the counties within the district.

Section 29. Subsection (1) and paragraph (a) of subsection (2) of section 406.11, Florida Statutes, are amended to read:

406.11 Examinations, investigations, and autopsies.—

(1) In any of the following circumstances involving the death of a human being, the medical examiner of the district in which the death occurred or the body was found shall determine the cause of death and shall make or have performed such examinations, investigations, and autopsies as he or she shall deem necessary or as shall be requested by the state attorney:

(a) When any person dies in the state:

1. Of criminal violence.
2. By accident.
3. By suicide.
4. Suddenly, when in apparent good health.
5. Unattended by a practicing physician or other recognized practitioner.
6. In any prison or penal institution.
7. In police custody.
8. In any suspicious or unusual circumstance.
9. By criminal abortion.
10. By poison.
11. By disease constituting a threat to public health.
12. By disease, injury, or toxic agent resulting from employment.

(b) When a dead body is brought into the state without proper medical certification.

(c) When a body is to be cremated, dissected, or buried at sea.

(2)(a) The district medical examiner shall have the authority in any case coming under any of the above categories to perform, or have performed, whatever autopsies or laboratory examinations he or she deems necessary in the public interest.

Section 30. Section 406.13, Florida Statutes, is amended to read:

406.13 Examiner's report; maintenance of records.—Upon receipt of such notification pursuant to s. 406.12, the district medical examiner or her or his associate shall examine or otherwise take charge of the dead body and shall notify the appropriate law enforcement agency pursuant to s. 406.145. When the cause of death has been established within reasonable medical certainty by the district medical examiner or her or his associate, she or he shall so report or make available to the state attorney, in writing, her or his determination as to the cause of said death. Duplicate copies of records and the detailed findings of autopsy and laboratory investigations shall be maintained by the district medical examiner. Any evidence or specimen coming into the possession of said medical examiner in connection with any investigation or autopsy may be retained by the medical examiner ~~him~~ or be delivered to one of the law enforcement officers assigned to the investigation of the death.

Section 31. Section 406.145, Florida Statutes, is amended to read:

406.145 Unidentified persons; reporting requirements.—When an unidentified body is transported to a district medical examiner pursuant to this chapter, the medical examiner shall immediately report receipt of such body to the appropriate law enforcement agency, provided such law enforcement agency was not responsible for transportation of the body to the medical examiner. If the medical examiner cannot determine the law enforcement agency having jurisdiction, he or she shall notify the sheriff of the county in which the medical examiner is located, who shall determine the law enforcement agency responsible for the identification. It is the duty of the law enforcement officer assigned to and investigating the death to immediately establish the identity of the body. If the body is not immediately identified, the law enforcement agency responsible for investigating the death shall complete an Unidentified Person Report and enter the data, through the Florida Crime Information Center, into the Unidentified Person File of the National Crime Information Center. An Unidentified Person Report is that form identified by the Florida Department of Law Enforcement for use by law enforcement agencies in compiling information for entrance into the Unidentified Person File.

Section 32. Section 406.16, Florida Statutes, is amended to read:

406.16 Professional liability insurance.—The district medical examiners and associate medical examiners shall obtain professional liability insurance in an amount to be determined by the board of county commissioners of the county or counties served. The fees for such insurance shall be paid from funds appropriated by the board of county commissioners of such

county or counties. No county shall be liable for any acts of a medical examiner not within the scope of his or her official duties.

Section 33. Paragraph (a) of subsection (4) of section 408.0014, Florida Statutes, is amended to read:

408.0014 The Florida Health Access Corporation Act.—

(4) BOARD OF DIRECTORS.—

(a) The Florida Health Access Corporation shall operate subject to the supervision and approval of a seven-member board of directors, which shall consist of:

1. Two members, one from an urban county and one from a rural county, who shall represent small businesses whose employees are eligible to participate in the Florida Health Access Corporation;

2. One member who shall represent consumers eligible to participate in the Florida Health Access Corporation;

3. One member who shall be a representative of a domestic health care insurer or of a private company which offers a self-insured program of health benefits to employees;

4. One member who shall be the Director of Health Care Administration or the director's ~~his~~ designee;

5. One member who shall be a representative of the Florida Chamber of Commerce; and

6. One member who shall be a representative of an employer health coalition.

Section 34. Paragraph (a) of subsection (1) of section 408.006, Florida Statutes, is amended to read:

408.006 The Florida Health Plan; goals; report.—The Legislature hereby establishes primary goals and strategies to guide the development of The Florida Health Plan. These goals and strategies include:

(1) ACCESS TO HEALTH CARE SERVICES.—Access to health care is an increasing problem for many Floridians, especially for women and young children, part-time employees, employees of small businesses, and the unemployed. The failure of our health care system to be accessible to all residents is not only unacceptable to the Legislature for humanitarian reasons, but also because it results in inappropriate and far more costly use of health resources, a less productive workforce, and a less effective educational system. Therefore, the Legislature establishes the following health access goal for The Florida Health Plan: All Floridians shall be ensured access to a basic health care benefit package as determined by the Legislature, by December 31, 1994.

(a) To ensure achievement of The Florida Health Plan's health access goal, the agency shall submit to the Legislature interim recommendations

for the implementation of The Florida Health Plan health access goal on or before December 31, 1992, and final recommendations on or before December 31, 1993. At a minimum, recommendations shall include proposals for:

1. Increasing health care coverage through the development of a basic health care benefit package that provides basic health services to all residents of the state, regardless of health condition, age, sex, race, geographic location, employment, or economic status.
2. Ensuring that an appropriate number and distribution of health care facilities and health ~~personnel~~ manpower are available throughout the state by January 1, 1996.
3. Providing fair reimbursement to health care providers in a timely and uncomplicated manner.

Section 35. Paragraph (a) of subsection (1) and subsection (2) of section 408.033, Florida Statutes, are amended to read:

408.033 Local and state health planning.—

(1) LOCAL HEALTH COUNCILS.—

(a) Local health councils are hereby established as public or private non-profit agencies serving the counties of a district or regional area of the agency. The members of each council shall be appointed in an equitable manner by the county commissions having jurisdiction in the respective district. Each council shall be composed of a number of persons equal to 1½ times the number of counties which compose the district or 12 members, whichever is greater. Each county in a district shall be entitled to at least one member on the council. The balance of the membership of the council shall be allocated among the counties of the district on the basis of population rounded to the nearest whole number; except that in a district composed of only two counties, no county shall have fewer than four members. The appointees shall be representatives of health care providers, health care purchasers, and nongovernmental health care consumers, but not excluding elected government officials. The members of the consumer group shall include a representative number of persons over 60 years of age. A majority of council members shall consist of health care purchasers and health care consumers. The local health council shall provide each county commission a schedule for appointing council members to ensure that council membership complies with the requirements of this paragraph. The members of the local health council shall elect a ~~chair~~ chairman. Members shall serve for terms of 2 years and may be eligible for reappointment.

(2) STATEWIDE HEALTH COUNCIL.—The Statewide Health Council is hereby established as a state-level comprehensive health planning and policy advisory board. For administrative purposes, the council shall be located within the agency. The Statewide Health Council shall be composed of: the State Health Officer; the Deputy Director for Health Policy and Cost Control and the Deputy Director for Health Quality Assurance of the department; the director of the Health Care Board; the Insurance Commissioner or ~~the commissioner's~~ his designee; the Vice Chancellor for Health Affairs

of the Board of Regents; three ~~chairs~~ chairmen of regional planning councils, selected by the regional planning councils; five ~~chairs~~ chairmen of local health councils, selected by the local health councils; four members appointed by the Governor, one of whom is a consumer over 60 years of age, one of whom is a representative of organized labor, one of whom is a physician, and one of whom represents the nursing home industry; five members appointed by the President of the Senate, one of whom is a representative of the insurance industry in this state, one of whom is the chief executive officer of a business with more than 300 employees in this state, one of whom represents the hospital industry, one of whom is a primary care physician, and one of whom is a nurse, and five members appointed by the Speaker of the House of Representatives, one of whom is a consumer who represents a minority group in this state, one of whom represents the home health care industry in this state, one of whom is an allied health care professional, one of whom is the chief executive officer of a business with fewer than 25 employees in this state, and one of whom represents a county social services program that provides health care services to the indigent. Appointed members of the council shall serve for 2-year terms commencing October 1 of each even-numbered year. The council shall elect a president from among the members who are not state employees. The Statewide Health Council shall:

(a) Advise the Governor, the Legislature, and the department on state health policy issues, state and local health planning activities, and state health regulation programs;

(b) Prepare a state health plan that specifies subgoals, quantifiable objectives, strategies, and resource requirements to implement the goals and policies of the health element of the State Comprehensive Plan. The plan must assess the health status of residents of this state; evaluate the adequacy, accessibility, and affordability of health services and facilities; assess government-financed programs and private health care insurance coverages; and address other topical local and state health care issues. Within 2 years after the health element of the State Comprehensive Plan is amended, and by July 1 of every 3rd year, if it is not amended, the Statewide Health Council shall submit the state health plan to the Executive Office of the Governor, the secretary of the department, the President of the Senate, and the Speaker of the House of Representatives;

(c) Promote public awareness of state health care issues and, in conjunction with the local health councils, conduct public forums throughout the state to solicit the comments and advice of the public on the adequacy, accessibility, and affordability of health care services in this state and other health care issues;

(d) Consult with local health councils, the Department of Insurance, the Department of Health and Rehabilitative Services, and other appropriate public and private entities, including health care industry representatives regarding the development of health policies;

(e) Serve as a forum for the discussion of local health planning issues of concern to the local health councils and regional planning councils;

(f) Review district health plans for consistency with the State Comprehensive Plan and the state health plan;

(g) Review the health components of agency functional plans for consistency with the health element of the State Comprehensive Plan, advise the Executive Office of the Governor regarding inconsistencies, and recommend revisions to agency functional plans to make them consistent with the State Comprehensive Plan;

(h) Review any strategic regional plans that address health issues for consistency with the health element of the State Comprehensive Plan, advise the Executive Office of the Governor regarding inconsistencies, and recommend revisions to strategic regional policy plans to make them consistent with the State Comprehensive Plan;

(i) Assist the Department of Community Affairs in the review of local government comprehensive plans to ensure consistency with policy developed in the district health plans;

(j) With the assistance of the local health councils, conduct public forums and use other means to determine the opinions of health care consumers, providers, payors, and insurers regarding the state's health care goals and policies and develop suggested revisions to the health element of the State Comprehensive Plan. The council shall submit the proposed revisions to the health element of the State Comprehensive Plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 1993, and shall widely circulate the proposed revisions to affected parties. The council shall periodically assess the progress made in achieving the goals and policies contained in the health element of the State Comprehensive Plan and report to the department, the Governor, the President of the Senate, and the Speaker of the House of Representatives; and

(k) Conduct any other functions or studies and analyses falling under the duties listed above.

Section 36. Paragraph (h) of subsection (1) of section 408.035, Florida Statutes, is amended to read:

408.035 Review criteria.—

(1) The agency shall determine the reviewability of applications and shall review applications for certificate-of-need determinations for health care facilities and services, hospices, and health maintenance organizations in context with the following criteria:

(h) The availability of resources, including health personnel ~~manpower~~, management personnel, and funds for capital and operating expenditures, for project accomplishment and operation; the effects the project will have on clinical needs of health professional training programs in the service district; the extent to which the services will be accessible to schools for health professions in the service district for training purposes if such services are available in a limited number of facilities; the availability of alternative uses of such resources for the provision of other health services; and

the extent to which the proposed services will be accessible to all residents of the service district.

Section 37. Paragraphs (b), (c), and (d) of subsection (8) of section 408.05, Florida Statutes, are amended to read:

408.05 State Center for Health Statistics.—

(8) STATE COMPREHENSIVE HEALTH INFORMATION SYSTEM ADVISORY COUNCIL.—

(b) Each member of the council shall be appointed to serve for a term of 4 years from the date of his appointment, except that a vacancy shall be filled by appointment for the remainder of the term and except that:

1. Three of the members initially appointed by the Director of Health Care Administration shall each be appointed for a term of 3 years.

2. Two of the members initially appointed by the Director of Health Care Administration shall each be appointed for a term of 2 years.

3. Two of the members initially appointed by the Director of Health Care Administration shall each be appointed for a term of 1 year.

(c) The council may meet at the call of its ~~chair~~ chairman, at the request of the department, or at the request of a majority of its membership, but at least quarterly.

(d) Members shall elect a ~~chair~~ chairman annually.

Section 38. Subsection (29) of section 408.07, Florida Statutes, is amended to read:

408.07 Definitions.—As used in this chapter, with the exception of ss. 408.031-408.045, the term:

(29) “Health care purchaser” means an employer in the state, other than a health care facility, health insurer, or health care provider, who provides health care coverage for her or his employees.

Section 39. Subsection (3) of section 408.7045, Florida Statutes, is amended to read:

408.7045 Community health purchasing alliance marketing requirements.—

(3) Annually, the alliance shall offer each member small employer all accountable health partnerships available in the alliance and provide them with the appropriate materials relating to those plans. The member small employer may choose which health benefit plans shall be offered to eligible employees and may change the selection each year. The employee may be given options with regard to health plans and the type of managed care system under which his or her benefits will be provided.

Section 40. Subsection (6) of section 408.705, Florida Statutes, is amended to read:

408.705 Community health purchasing alliances; boards of directors.—

(6) Each board member is accountable to the Governor for proper performance of her or his duties as a member of the board. The Governor may remove from office any board member for neglect of duty.

Section 41. Paragraphs (a) and (b) of subsection (2) of section 408.7071, Florida Statutes, are amended to read:

408.7071 Standardized claim form.—

(2) In order to develop the standardized claim form, the agency shall appoint a 15-person committee. The committee shall consist of:

(a) The director of the Agency for Health Care Administration, or the director's ~~his~~ designee.

(b) The Insurance Commissioner, or the commissioner's ~~his~~ designee.

Section 42. Paragraphs (a) and (c) of subsection (2) of section 409.145, Florida Statutes, are amended to read:

409.145 Care of children.—

(2) The following dependent children shall be subject to the protection, care, guidance, and supervision of the department or any duly licensed public or private agency:

(a) Any child who has been temporarily or permanently taken from the custody of the ~~his~~ parents, custodians, or guardians in accordance with those provisions in chapter 39 that relate to dependent children.

(c) Any child who is voluntarily placed, with the written consent of the ~~his~~ parents or guardians, in the department's foster care program or the foster care program of a licensed private agency.

Section 43. Subsection (1) of section 409.166, Florida Statutes, is amended to read:

409.166 Special needs children; subsidized adoption program.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature to protect and promote every child's right to the security and stability of a permanent family home. The Legislature intends to make available to prospective adoptive parents financial aid which will enable them to adopt a child in foster care who, because of his or her special needs, has proven difficult to place in an adoptive home. In providing subsidies for children with special needs in foster homes, it is the intent of the Legislature to reduce state expenditures for long-term foster care. It is also the intent of the Legislature that placement without subsidy be the placement of choice unless it can be shown that such placement is not in the best interest of the child.

Section 44. Subsection (3) of section 409.212, Florida Statutes, is amended to read:

409.212 Optional supplementation.—

(3) In addition to the amount of optional supplementation provided by the state, a person may receive additional supplementation from third parties to contribute to his or her cost of care. Additional supplementation may be provided under the following conditions:

(a) Payments shall be made to the assisted living facility, or to the operator of an adult family-care home, family placement, or other special living arrangement, on behalf of the person and not directly to the optional state supplementation recipient.

(b) Contributions made by third parties shall be entirely voluntary and shall not be a condition of providing proper care to the client.

(c) The additional supplementation shall not exceed two times the provider rate recognized under the optional state supplementation program.

(d) Rent vouchers issued pursuant to a federal, state, or local housing program may be issued directly to a recipient of optional state supplementation.

Section 45. Paragraph (b) of subsection (2) of section 409.2574, Florida Statutes, is amended to read:

409.2574 Income deduction enforcement in Title IV-D cases.—

(2)

(b) The department shall serve a notice of its intent to enforce income deduction on the obligor. Service upon an obligor under this section shall be made in the manner prescribed in chapter 48. The department shall furnish to the obligor a statement of the obligor's ~~his~~ rights, remedies, and duties in regard to the income deduction.

Section 46. Subsection (1) of section 409.2575, Florida Statutes, is amended to read:

409.2575 Liens on motor vehicles and vessels.—

(1) The director of the state IV-D program may cause a lien for unpaid and delinquent support to be placed upon motor vehicles, as defined in chapter 320, and upon vessels, as defined in chapter 327, that are registered in the name of an obligor who is delinquent in ~~his~~ support payments, if the title to the property is held by a lienholder, in the manner provided in chapter 319 or chapter 328. Notice of lien shall not be mailed unless the delinquency in support exceeds \$600.

Section 47. Paragraph (a) of subsection (1) and subsection (2) of section 409.352, Florida Statutes, are amended to read:

409.352 Licensing requirements for physicians, osteopathic physicians, and chiropractic physicians employed by the department.—

(1) It is the intent of the Legislature that physicians providing services in state institutions meet the professional standards of their respective licensing boards and that such institutions make every reasonable effort to assure that all physicians employed are licensed, or will become licensed, in this state. When state-licensed physicians cannot be obtained in sufficient numbers to provide quality services, the licensing requirements in chapters 458, 459, and 460 to the contrary notwithstanding, persons employed as physicians, osteopathic physicians, or chiropractic physicians in a state institution, except those under the control of the Department of Corrections on June 28, 1977, may be exempted from licensure in accordance with the following provisions:

(a) No more than 10 percent of such persons shall be exempted from licensure during their continued employment in a state institution. Those persons who shall be so exempted shall be selected by the Secretary of the Department of Health and Rehabilitative Services. In making the ~~his~~ selection, the secretary shall submit his or her recommendations to the appropriate licensing board for a determination by the board, without written examination, of whether or not the person recommended meets the professional standards required of such person in the performance of his or her duties or functions. The criteria to be used by the respective board in making its determination shall include, but not be limited to, the person's professional educational background, formal specialty training, and professional experience within the 10 years immediately preceding employment by the state institution.

(2) No person subject to the provisions of this section shall, by virtue of ~~his~~ continued employment in accordance with such provisions, be in violation of the unauthorized practice provisions of chapter 458, chapter 459, or chapter 460 during such period of employment.

Section 48. Section 409.401, Florida Statutes, is amended to read:

409.401 Interstate Compact on the Placement of Children.—The Interstate Compact on the Placement of Children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

ARTICLE I. Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis on which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II. Definitions

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III. Conditions for Placement

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

- (1) The name, date and place of birth of the child.
- (2) The identity and address or addresses of the parents or legal guardian.
- (3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV. Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V. Retention of Jurisdiction

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE VI. Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and
2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII. Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his or her jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII. Limitations

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by a his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or a his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX. Enactment and Withdrawal

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until 2 years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X. Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Section 49. Subsection (2) of section 410.032, Florida Statutes, is amended to read:

410.032 Definitions.—As used in ss. 410.031-410.036:

(2) “Disabled adult” means any person at least 18 years of age, but under 60 years of age, who is not eligible for vocational rehabilitation services and who has one or more permanent physical or mental limitations that restrict his or her ability to perform the normal activities of daily living and impede his or her capacity to live independently.

Section 50. Subsection (2) of section 410.603, Florida Statutes, is amended to read:

410.603 Definitions.—As used in ss. 410.601-410.606:

(2) “Disabled adult” means any person at least 18 years of age, but under 60 years of age, who has one or more permanent physical or mental limitations which restrict his or her ability to perform the normal activities of daily living and impede his or her capacity to live independently or with relatives or friends without the provision of community-based services.

Section 51. Subsections (2) and (7) of section 411.202, Florida Statutes, are amended to read:

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

(2) “Case management” means those activities aimed at assessing the needs of the high-risk child and his or her family; planning and linking the service system to the child and his or her family, based on child and family outcome objectives; coordinating and monitoring service delivery; and evaluating the effect of the service delivery system.

(7) “Early assistance” means any sustained and systematic effort designed to prevent or reduce the assessed level of health, educational, biological, environmental, or social risk for a high-risk child and his or her family.

Section 52. Subsection (3) of section 413.031, Florida Statutes, is amended to read:

413.031 Products, purchase by state agencies and institutions.—

(3) When convenience or emergency requires it, the Department of Health and Rehabilitative Services may upon request of the purchasing officer of any institution or agency relieve her or him from the obligation of this section.

Section 53. Paragraph (c) of subsection (3) and paragraph (c) of subsection (4) of section 413.033, Florida Statutes, are amended to read:

413.033 Definitions.—As used in ss. 413.032-413.037:

(3) “Qualified nonprofit agency for the blind” means an agency:

(c) Which, in the production of commodities and the provision of services, whether or not the commodities or services are procured under ss. 413.032-413.037, during the fiscal year employs blind individuals for not less than 75 percent of the person-hours ~~man-hours~~ of direct labor required for the production or provision of the commodities or services; and

(4) “Qualified nonprofit agency for other severely handicapped” means an agency:

(c) Which, in the production of commodities and in the provision of services, whether or not the commodities or services are procured under ss. 413.032-413.037, during the fiscal year employs blind or other severely handicapped individuals for not less than 75 percent of the person-hours ~~man-hours~~ of direct labor required for the production or provision of the commodities or services; and

Section 54. Subsections (2) and (4) of section 413.034, Florida Statutes, are amended to read:

413.034 Commission established; membership.—

(2) The members of the commission shall elect one of their members to serve as chair ~~chairman~~. Any nonappointed member may designate a representative of her or his agency or department to represent her or him at any meeting of the commission. The commission shall meet at the call of its chair ~~chairman~~, at the request of a majority of its membership, at the request of the Department of Management Services, or at such times as may be prescribed by its rules.

(4) Each appointed member is accountable to the Governor for the proper performance of the duties of her or his office. The Governor shall cause to be investigated any complaint or unfavorable report received concerning an action of the commission or any member and shall take appropriate action thereon. The Governor may remove from office any appointed member for malfeasance, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, or pleading guilty or nolo contendere to, or being found guilty of, a felony.

Section 55. Subsection (2) of section 413.037, Florida Statutes, is amended to read:

413.037 Cooperation with commission required; duties of state agencies.—

(2) The commission may secure directly from any agency of the state information necessary to enable it to carry out this act. Upon request of the ~~chair chairman~~ of the commission, the head of the agency shall furnish such information to the commission.

Section 56. Section 413.063, Florida Statutes, is amended to read:

413.063 Permit.—The Division of Blind Services shall make a thorough investigation of the applicant and of the facts alleged in her or his application. If the applicant is found to be responsible and the purposes and method of the proposed solicitation are determined to be in the best interests of blind persons and public welfare, the Division of Blind Services shall issue to the applicant a written permit authorizing her or him to conduct the proposed solicitation. Such permit shall be limited to a period of 1 year. It shall set forth the specified method, purpose, and organization of the solicitation which is approved and shall list the names of persons responsible for its conduct.

Section 57. Paragraphs (b) and (d) of subsection (4) of section 413.08, Florida Statutes, are amended to read:

413.08 Rights of physically disabled persons; use of dog guides or service dogs or nonhuman primates of the genus *Cebus*; discrimination in public employment or housing accommodations; penalties.—

(4) Deaf persons, hard of hearing persons, blind persons, visually handicapped persons, and otherwise physically disabled persons shall be entitled to rent, lease, or purchase, as other members of the general public, any housing accommodations offered for rent, lease, or other compensation in this state, subject to the conditions and limitations established by law and applicable alike to all persons.

(b) Nothing in this section shall require any person renting, leasing, or otherwise providing real property for compensation to modify her or his property in any way or provide a higher degree of care for a deaf person, hard of hearing person, blind person, visually handicapped person, or otherwise physically disabled person than for a person who is not so handicapped.

(d) Each person with paraplegia or quadriplegia who has or obtains a nonhuman primate of the genus *Cebus*, specially trained for the purpose of providing personal care services, shall be entitled to full and equal access to all housing accommodations provided for in this section, and she or he shall not be required to pay extra compensation for such nonhuman primate. However, such person shall be liable for any damage done to the premises by such nonhuman primate.

Section 58. Subsection (12) of section 413.20, Florida Statutes, is amended to read:

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

(12) "Independent living services" means any appropriate rehabilitation service that will enhance the ability of a person who has a severe disability to live independently, to function within her or his family and community and, if appropriate, to secure and maintain employment. Services may include, but are not limited to, psychological counseling and psychotherapeutic counseling; independent living care services; community education and related services; housing assistance; physical and mental restoration; personal attendant care; transportation; personal assistance services; interpretive services for persons who are deaf; recreational activities; services to family members of persons who have severe disabilities; vocational and other training services; telecommunications services; sensory and other technological aids and devices; appropriate preventive services to decrease the needs of persons assisted under the program; and other rehabilitation services appropriate for the independent living needs of a person who has a severe disability.

Section 59. Subsection (1) of section 413.273, Florida Statutes, is amended to read:

413.273 Per diem, travel expenses, personal care attendants, and interpreters for council members; conflicts of interest; removal.—

(1) Members of any council established under this part are entitled to per diem and travel expenses for required attendance at council meetings in accordance with the provisions of s. 112.061. Reasonable expenses for personal care attendants and interpreters needed by members during required attendance at council meetings shall be reimbursed. No member shall receive any compensation for performance of duties specified in, or arising out of, her or his duties as a council member under this part except as otherwise specified in this part.

Section 60. Section 413.401, Florida Statutes, is amended to read:

413.401 Eligibility for independent living services.—Independent living services may be provided to any person who has a severe disability and for whom a reasonable expectation exists that independent living services will significantly assist the individual to improve her or his ability to function independently within the family or community, or to engage in or continue in employment, and to be able to function independently.

Section 61. Subsections (3), (4), (5), and (6) of section 413.445, Florida Statutes, are amended to read:

413.445 Recovery of third-party payments for vocational rehabilitation and related services.—

(3) An applicant for or recipient of any vocational rehabilitation and related services must inform the division of any rights she or he has to third-party payments for such services, and the division shall be subrogated to her or his rights to such third-party payments. The division may recover directly from:

(a) Any third party liable to make a benefit payment to the provider of the recipient's vocational rehabilitation and related services or to the recipient under the terms of any contract, settlement, or award;

(b) The recipient, if she or he has received third-party payment for vocational rehabilitation and related services provided to her or him; or

(c) The provider of the recipient's vocational rehabilitation and related services if third-party payment for such services has been recovered by the provider.

(4) An applicant for or a recipient of vocational rehabilitation and related services is deemed to have assigned to the division her or his rights to any payments for such services from a third party and to have authorized the division to release information with respect to such services for the sole purpose of obtaining reimbursement.

(5) The division may, in order to enforce its subrogation rights under this section, institute, intervene in, or join any legal proceeding against a third party against whom recovery rights arise. Action taken by the division does not preclude the recipient's recovery for that portion of her or his damages not subrogated to the division, and action taken by the recipient does not prejudice the subrogation rights of the division.

(6) When the division provides, pays for, or becomes liable for vocational rehabilitation and related services, it has a lien for the amount of such services upon all causes of action which accrue to the recipient or to her or his legal representatives as a result of sickness, injury, disease, disability, or death, due to the liability of a third party which necessitated the services. To perfect such lien, a notice of lien must be filed with the clerk of the circuit court in the recipient's county of residence. The notice of lien must contain the name and address of the person to whom vocational rehabilitation and related services were furnished and the name, address, and telephone number of a person at the division from whom information regarding the lien can be obtained. The division's failure to file a notice of lien shall not affect the division's other rights provided in this section. Any notice of lien filed as provided under this subsection shall be valid for a period of 5 years after filing, and may be extended for an additional period of 5 years by filing a new notice of lien at any time prior to the expiration of the original notice of lien.

Section 62. Section 413.604, Florida Statutes, is amended to read:

413.604 Nursing home residents, age 55 and under; annual survey.—The division shall conduct an annual survey of nursing homes in the state to determine the number of persons 55 years of age and under who reside in such homes due to brain or spinal cord injuries. All persons identified in such a survey shall be evaluated as to their rehabilitation potential, and any person who may benefit from rehabilitation shall be given an opportunity to participate in an appropriate rehabilitation program for which she or he may be eligible.

Section 63. Subsection (1) of section 413.72, Florida Statutes, is amended to read:

413.72 Eligibility.—

(1) A person who has a limiting disability must document her or his limiting disability through diagnostics provided by her or him or by the division to be eligible for services provided through the limiting disabilities program. Any person who has a rapidly changing condition is not eligible for such services.

Section 64. Subsection (6) of section 415.104, Florida Statutes, is amended to read:

415.104 Protective services investigations of cases of abuse, neglect, or exploitation of aged persons or disabled adults; transmittal of records to state attorney.—

(6) Within 15 days of completion of the state attorney's ~~his~~ investigation of a case reported to him or her pursuant to this section, the state attorney shall report his or her findings to the department and shall include a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 65. Paragraph (c) of subsection (2) of section 415.1065, Florida Statutes, is amended to read:

415.1065 Records management.—All records must be maintained in their entirety for their full retention period, except as otherwise provided in this section:

(2) RECORDS OF PROPOSED CONFIRMED REPORTS.—

(c) If an alleged perpetrator refuses to accept personal service of the notice of a proposed confirmed report; refuses to accept service by certified mail, return receipt requested; or purposely evades receipt of service of the notice, the record of the proposed confirmed report must be retained for 25 years after the date the report was classified as proposed confirmed. For the purposes of this paragraph, the term “purposely evades receipt of service” means that the alleged perpetrator has left the state for the purpose of avoiding service of the notice, is using a false name so that the notice cannot be served, or is concealing his or her whereabouts in the state so that the notice cannot be served.

Section 66. Subsection (1) of section 415.1085, Florida Statutes, is amended to read:

415.1085 Photographs, medical examinations, and X rays of abused or neglected aged persons or disabled adults.—

(1) Any person authorized by law to investigate cases of alleged abuse or neglect of an aged person or disabled adult may take or cause to be taken photographs of the areas of trauma visible on the aged person or disabled adult who is the subject of a report, and photographs of the surrounding environment, with the consent of the subject or guardian or guardians. If the areas of trauma visible on the aged person or disabled adult indicate a need

for medical examination, or if the aged person or disabled adult verbally complains or otherwise exhibits distress as a result of injury through suspected adult abuse, neglect, or exploitation, or is alleged to have been sexually abused, the department may, with the consent of the subject or guardian or guardians, cause the aged person or disabled adult to be referred to a licensed physician or any emergency department in a hospital or health care facility for medical examinations and X rays, if deemed necessary by the examining physician. Such examinations may be performed by an advanced registered nurse practitioner licensed pursuant to chapter 464. Medical examinations performed and X rays taken pursuant to this section shall be paid for by third-party reimbursement, if available, or by the subject or his or her guardian, if they are determined to be financially able to pay; or, if neither is available, the department shall pay the costs within available emergency services funds.

Section 67. Section 415.109, Florida Statutes, is amended to read:

415.109 Abrogation of privileged communications in cases involving abuse, neglect, or exploitation of aged persons or disabled adults.—The privileged quality of communication between husband and wife and between any professional person and his or her patient or client, and any other privileged communication except that between attorney and client or the privilege provided in s. 90.505, as such communication relates to both the competency of the witness and to the exclusion of confidential communications, does not apply to any situation involving known or suspected adult abuse, neglect, or exploitation and does not constitute a ground for failure to report as required by s. 415.103, for failure to cooperate with the department in its activities pursuant to ss. 415.101-415.113, or for failure to give evidence in any judicial proceeding relating to abuse, neglect, or exploitation of an aged person or disabled adult.

Section 68. Subsection (10) of section 415.1113, Florida Statutes, is amended to read:

415.1113 Administrative fines for false report of abuse, neglect, or exploitation of a disabled adult or an elderly person.—

(10) Any person who makes a report and acts in good faith is immune from any liability under this section and continues to be entitled to have the confidentiality of his or her identity maintained.

Section 69. Paragraph (b) of subsection (2) of section 415.501, Florida Statutes, is amended to read:

415.501 Prevention of abuse and neglect of children; state plan.—

(2) PLAN FOR COMPREHENSIVE APPROACH.—

(b) The development of the comprehensive state plan shall be accomplished in the following manner:

1. The Department of Health and Rehabilitative Services shall establish an interprogram task force comprised of the Deputy Assistant Secretary for

Health or his or her designee and representatives from the Children, Youth, and Families Program Office, the Children's Medical Services Program Office, the Alcohol, Drug Abuse, and Mental Health Program Office, the Developmental Services Program Office, and the Office of Evaluation. Representatives of the Department of Law Enforcement and of the Department of Education shall serve as ex officio members of the interprogram task force. The interprogram task force shall be responsible for:

a. Developing a plan of action for better coordination and integration of the goals, activities, and funding pertaining to the prevention of child abuse and neglect conducted by the department in order to maximize staff and resources at the state level. The plan of action shall be included in the state plan.

b. Providing a basic format to be utilized by the districts in the preparation of local plans of action in order to provide for uniformity in the district plans and to provide for greater ease in compiling information for the state plan.

c. Providing the districts with technical assistance in the development of local plans of action, if requested.

d. Examining the local plans to determine if all the requirements of the local plans have been met and, if they have not, informing the districts of the deficiencies and requesting the additional information needed.

e. Preparing the state plan for submission to the Legislature and the Governor. Such preparation shall include the collapsing of information obtained from the local plans, the cooperative plans with the Department of Education, and the plan of action for coordination and integration of departmental activities into one comprehensive plan. The comprehensive plan shall include a section reflecting general conditions and needs, an analysis of variations based on population or geographic areas, identified problems, and recommendations for change. In essence, the plan shall provide an analysis and summary of each element of the local plans to provide a state-wide perspective. The plan shall also include each separate local plan of action.

f. Working with the specified state agency in fulfilling the requirements of subparagraphs 2., 3., 4., and 5.

2. The Department of Education and the Department of Health and Rehabilitative Services shall work together in developing ways to inform and instruct parents of school children and appropriate district school personnel in all school districts in the detection of child abuse and neglect and in the proper action that should be taken in a suspected case of child abuse or neglect, and in caring for a child's needs after a report is made. The plan for accomplishing this end shall be included in the state plan.

3. The Department of Law Enforcement and the Department of Health and Rehabilitative Services shall work together in developing ways to inform and instruct appropriate local law enforcement personnel in the detec-

tion of child abuse and neglect and in the proper action that should be taken in a suspected case of child abuse or neglect.

4. Within existing appropriations, the Department of Health and Rehabilitative Services shall work with other appropriate public and private agencies to emphasize efforts to educate the general public about the problem of and ways to detect child abuse and neglect and in the proper action that should be taken in a suspected case of child abuse or neglect. The plan for accomplishing this end shall be included in the state plan.

5. The Department of Education and the Department of Health and Rehabilitative Services shall work together on the enhancement or adaptation of curriculum materials to assist instructional personnel in providing instruction through a multidisciplinary approach on the identification, intervention, and prevention of child abuse and neglect. The curriculum materials shall be geared toward a sequential program of instruction at the four progressional levels, K-3, 4-6, 7-9, and 10-12. Strategies for encouraging all school districts to utilize the curriculum are to be included in the comprehensive state plan for the prevention of child abuse and child neglect.

6. Each district of the Department of Health and Rehabilitative Services shall develop a plan for its specific geographical area. The plan developed at the district level shall be submitted to the interprogram task force for utilization in preparing the state plan. The district local plan of action shall be prepared with the involvement and assistance of the local agencies and organizations listed in paragraph (a) as well as representatives from those departmental district offices participating in the treatment and prevention of child abuse and neglect. In order to accomplish this, the district administrator in each district shall establish a task force on the prevention of child abuse and neglect. The district administrator shall appoint the members of the task force in accordance with the membership requirements of this section. In addition, the district administrator shall ensure that each subdistrict is represented on the task force; and, if the district does not have subdistricts, the district administrator shall ensure that both urban and rural areas are represented on the task force. The task force shall develop a written statement clearly identifying its operating procedures, purpose, overall responsibilities, and method of meeting responsibilities. The district plan of action to be prepared by the task force shall include, but shall not be limited to:

a. Documentation of the magnitude of the problems of child abuse, including sexual abuse, physical abuse, and emotional abuse, and child neglect in its geographical area.

b. A description of programs currently serving abused and neglected children and their families and a description of programs for the prevention of child abuse and neglect, including information on the impact, cost-effectiveness, and sources of funding of such programs.

c. A continuum of programs and services necessary for a comprehensive approach to the prevention of all types of child abuse and neglect as well as a brief description of such programs and services.

d. A description, documentation, and priority ranking of local needs related to child abuse and neglect prevention based upon the continuum of programs and services.

e. A plan for steps to be taken in meeting identified needs, including the coordination and integration of services to avoid unnecessary duplication and cost, and for alternative funding strategies for meeting needs through the reallocation of existing resources, utilization of volunteers, contracting with local universities for services, and local government or private agency funding.

f. A description of barriers to the accomplishment of a comprehensive approach to the prevention of child abuse and neglect.

g. Recommendations for changes that can be accomplished only at the state program level or by legislative action.

The district local plan of action shall be submitted to the interprogram task force by November 1, 1982.

Section 70. Section 415.506, Florida Statutes, is amended to read:

415.506 Taking child into protective custody.—A law enforcement officer or authorized agent of the department may take a child into custody as provided in chapter 39. Any person in charge of a hospital or similar institution or any physician treating a child may keep that child in his or her custody without the consent of the parents, legal guardian, or legal custodian, whether or not additional medical treatment is required, if the circumstances are such, or if the condition of the child is such, that continuing the child in the child's place of residence or in the care or custody of the parents, legal guardian, or legal custodian presents an imminent danger to the child's life or physical or mental health. Any person taking a child into protective custody shall immediately notify the department, whereupon the department shall immediately begin a child protective investigation in accordance with the provisions of s. 415.505(1) and shall make every reasonable effort to immediately notify the parents, legal guardian, or legal custodian that such child has been taken into protective custody. If the department determines, according to the criteria set forth in s. 39.402, that the child should remain in protective custody longer than 24 hours, it shall petition the court for an order authorizing such custody in the same manner as if the child were placed in a shelter. The department shall attempt to avoid the placement of a child in an institution whenever possible.

Section 71. Paragraph (b) of subsection (2) of section 415.507, Florida Statutes, is amended to read:

415.507 Photographs, medical examinations, X rays, and medical treatment of abused or neglected child.—

(2) Consent for any medical treatment shall be obtained in the following manner.

(b) If a parent or guardian of the child is unavailable and his or her whereabouts cannot be reasonably ascertained, and it is after normal working hours so that a court order cannot reasonably be obtained, an authorized agent of the department shall have the authority to consent to necessary medical treatment for the child. The authority of the department to consent to medical treatment in this circumstance shall be limited to the time reasonably necessary to obtain court authorization.

In no case shall the department consent to sterilization, abortion, or termination of life support.

Section 72. Section 415.5084, Florida Statutes, is amended to read:

415.5084 Petition for appointment of a guardian advocate.—A petition for appointment of a guardian advocate may be filed by the department, any relative of the child, any licensed health care professional, or any other interested person. The petition shall be in writing and shall be signed by the petitioner under oath stating his or her good faith in filing the petition. The form of the petition and its contents shall be determined by the Florida Rules of Juvenile Procedure.

Section 73. Subsection (2) of section 415.511, Florida Statutes, is amended to read:

415.511 Immunity from liability in cases of child abuse or neglect.—

(2)(a) No resident or employee of a facility serving children may be subjected to reprisal or discharge because of his or her actions in reporting abuse or neglect pursuant to the requirements of this section.

(b) Any person making a report under this section shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of such reporting party by reason of his or her making such report. Any detrimental change made in the residency or employment status of such person, including, but not limited to, discharge, termination, demotion, transfer, or reduction in pay or benefits or work privileges, or negative evaluations within a prescribed period of time shall establish a rebuttable presumption that such action was retaliatory.

Section 74. Section 415.512, Florida Statutes, is amended to read:

415.512 Abrogation of privileged communications in cases involving child abuse or neglect.—The privileged quality of communication between husband and wife and between any professional person and his or her patient or client, and any other privileged communication except that between attorney and client or the privilege provided in s. 90.505, as such communication relates both to the competency of the witness and to the exclusion of confidential communications, shall not apply to any communication involving the perpetrator or alleged perpetrator in any situation involving known or suspected child abuse or neglect and shall not constitute grounds for failure to report as required by s. 415.504 regardless of the source of the information requiring the report, failure to cooperate with the

department in its activities pursuant to ss. 415.502-415.514, or failure to give evidence in any judicial proceeding relating to child abuse or neglect.

Section 75. Subsections (1), (3), (4), and (5) of section 418.302, Florida Statutes, are amended to read:

418.302 Governing body of mobile home park recreation district.—

(1) The governing body of a recreation district created pursuant to section 1 shall consist of a nine-member board of trustees elected by the electors of the district. A person desiring to have her or his name placed on the ballot for election as a trustee of the district shall be a qualified elector of the district and shall present a written petition, signed by the applicant and not fewer than 25 other electors of the district, to the supervisor of elections of the county not less than 60 days prior to the date of the election. The supervisor of elections shall be entitled to a reasonable reimbursement for conducting the election, payable out of the general funds of the district.

(3) In the election held to elect the first board of trustees for the district, the candidates receiving the first, third, fifth, seventh, and ninth highest number of votes shall be elected to serve for terms of 2 years each, and the candidates receiving the second, fourth, sixth, and eighth highest number of votes shall be elected to serve for terms of 1 year each. Thereafter, elections for the board of trustees shall be held annually on a date to be specified in the ordinance creating the district, and those persons elected after the initial election shall be elected to serve for terms of 2 years each. A trustee may succeed herself or himself in office.

(4) After each election, the board of trustees shall organize itself by electing from its number a chair ~~chairman~~, two vice chairs ~~chairmen~~, a secretary, and a treasurer. The trustees may not receive any compensation for their services, but shall be entitled to be reimbursed from funds of the district for any authorized disbursements they may properly incur in behalf of the district. Each trustee who is authorized to sign checks of the district or is otherwise designated to handle its funds shall, before she or he enters upon such duties, execute to the Governor, for the benefit of the district, a good and sufficient bond, approved by a circuit judge of the county in which the district is established, in the sum of \$10,000 with a qualified corporate surety, conditioned to faithfully perform the duties of her or his office and to account for all funds which may come into her or his hands as such trustee. All premiums for the surety on such bonds shall be paid from the funds of the district. The trustees shall conduct their business as a public body and shall be subject to all laws of the state relating to open government, financial disclosure, avoidance of conflicts of interest, and ethics.

(5) Any vacancy on the board of trustees shall be filled for the unexpired term by the appointment of a successor from among the qualified electors of the district by the remaining trustees. Any trustee who fails to discharge her or his duties may be removed for cause by the board of trustees after due notice and an opportunity to be heard upon charges of malfeasance or misfeasance. A trustee who is not guilty of malfeasance or misfeasance in office is relieved of any personal liability for acts done by her or him while holding office. Except with respect to matters wherein it is adjudged that the trustee

is liable for gross negligence or misconduct in the performance of her or his duties, a trustee who is made a party to any action, suit, or proceeding solely by reason of her or his holding office in the district shall be indemnified by the district against reasonable expenses, including attorney's fees, incurred by the trustee ~~him~~ in defending such suit, action, or proceeding.

Section 76. Paragraph (d) of subsection (1) of section 420.101, Florida Statutes, is amended to read:

420.101 Housing Development Corporation of Florida; creation, membership, and purposes.—

(1) Twenty-five or more persons, a majority of whom shall be residents of this state, who may desire to create a housing development corporation under the provisions of this part for the purpose of promoting and developing housing and advancing the prosperity and economic welfare of the state and, to that end, to exercise the powers and privileges hereinafter provided, may be incorporated by filing in the Department of State, as hereinafter provided, articles of incorporation. The articles of incorporation shall contain:

(d) The names and post-office addresses of the members of the first board of directors. The first board of directors shall be elected by and from the stockholders of the corporation and shall consist of 21 members. However, five of such members shall consist of the following persons, who shall be nonvoting members: the secretary of the Department of Community Affairs or her or his designee; the head of the Department of Banking and Finance or her or his designee; the head of the Department of Insurance or her or his designee; one state senator appointed by the President of the Senate; and one representative appointed by the Speaker of the House of Representatives.

Section 77. Section 420.124, Florida Statutes, is amended to read:

420.124 Stockholders; powers.—The stockholders of the corporation shall have the following powers of the corporation:

- (1) To make, amend, and repeal bylaws.
- (2) To amend the charter as provided in s. 420.131.
- (3) To dissolve the corporation as provided in s. 420.161.
- (4) To do all things necessary or desirable to secure aid, assistance, loans, and other financing from any financial institution and from any similar government agency.
- (5) To exercise such other of the powers of the corporation consistent with this chapter as may be conferred on the stockholders by the bylaws. As to all matters requiring action by the stockholders of the corporation, said stockholders shall vote separately thereon, and, except as otherwise herein provided, such matters shall require the affirmative vote of a majority of the votes to which the stockholders present or represented at the meeting shall be entitled.

Each stockholder shall have one vote, in person or by proxy, for each share of capital stock held by her or him.

Section 78. Subsections (5) and (16) of section 420.503, Florida Statutes, are amended to read:

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

(5) “Commercial fishing worker” means a laborer who is employed on a seasonal, temporary, or permanent basis in fishing in salt water or fresh water and who derived at least 50 percent of her or his income in the immediately preceding 12 months from such employment. The term includes a person who has retired as a laborer due to age, disability, or illness. In order to be considered retired due to age, a person must be 50 years of age or older and must have been employed for a minimum of 5 years as a commercial fishing worker. In order to be considered retired due to disability or illness, a person must:

(a) Establish medically that she or he is unable to be employed as a commercial fishing worker due to that disability or illness; and

(b) Establish that she or he was previously employed as a commercial fishing worker.

(16) “Farmworker” means a laborer who is employed on a seasonal, temporary, or permanent basis in the planting, cultivating, harvesting, or processing of agricultural or aquacultural products and who derived at least 50 percent of her or his income in the immediately preceding 12 months from such employment. “Farmworker” also includes a person who has retired as a laborer due to age, disability, or illness. In order to be considered retired as a farmworker due to age under this part, a person must be 50 years of age or older and must have been employed for a minimum of 5 years as a farmworker before retirement. In order to be considered retired as a farmworker due to disability or illness, a person must:

(a) Establish medically that she or he is unable to be employed as a farmworker due to that disability or illness.

(b) Establish that she or he was previously employed as a farmworker.

Section 79. Paragraph (a) of subsection (1) of section 420.508, Florida Statutes, is amended to read:

420.508 Special powers; mortgages and loans to lenders.—The agency shall have the special power to:

(1)(a) Purchase or take assignments of, and enter into commitments to purchase or to take assignments of, mortgage loans and promissory notes accompanying such mortgage loans (including participations therein) from lending institutions acting as a principal or as an agent of the agency; provided, at or before the time of any such purchase or assignment, each lending institution shall represent and warrant to, and covenant with, the agency with respect to each mortgage loan to be so purchased or assigned or in which the agency is to purchase a participation that:

1. The unpaid principal balance of the mortgage loan and the interest rate thereon have been accurately stated to the agency;
2. The amount of the unpaid principal balance is justly due and owing;
3. The lending institution has no notice of the existence of any counterclaim, offset, or defense asserted by the mortgagor or her or his successor in interest;
4. The mortgage loan is evidenced by a duly executed promissory note and a duly executed mortgage which has been properly recorded with the appropriate public official;
5. The mortgage constitutes a valid first lien on the real property described to the authority, subject only to such title exceptions as are specifically described to the agency and as are acceptable to the agency;
6. The mortgagor is not in default in the payment of any installment of principal or interest, escrow funds, real property taxes, or otherwise in the performance of her or his obligations under the mortgage documents;
7. The improvements to the mortgaged real property are covered by a valid and subsisting policy of insurance issued by a company authorized to issue such policies in the state and providing fire and extended coverage in such amounts as the agency may prescribe by rule;
8. The mortgage loan meets the prevailing investment quality standards for such mortgage loans in the state; and
9. Either:
 - a. The mortgage loan was originated after such date as the agency shall have specified, for the purpose of selling or assigning such mortgage loan or a participation therein to the agency, and was made to an eligible person to finance the construction, purchase, or refinancing of residential housing for occupancy by one to four families, all of whom are eligible persons and one of whom is the mortgagor; or
 - b. An amount at least equal to the aggregate proceeds received by the lending institution upon the sale or assignment will be invested by the lending institution in new mortgage loans originated after such date as the agency shall specify and will be made to eligible persons to finance the construction, purchase, or refinancing of residential housing for occupancy by one to four families, all of whom are eligible persons and one of whom is the mortgagor.

Section 80. Paragraph (n) of subsection (1) and paragraph (a) of subsection (2) of section 420.609, Florida Statutes, are amended to read:

420.609 Affordable Housing Study Commission.—Because the Legislature firmly supports affordable housing in Florida for all economic classes:

(1) There is hereby created the Affordable Housing Study Commission which shall be composed of 21 members to be appointed by the Governor:

(n) One citizen of the state to serve as chair ~~chairman~~ of the commission.

(2)(a) Members shall be appointed for 4-year staggered terms, except that the citizen serving as chair ~~chairman~~ shall be appointed to serve a 2-year term and except that a vacancy shall be filled for the unexpired portion of the term. The members of the commission shall serve without compensation, but shall be reimbursed for all necessary expenses in the performance of their duties, including travel expenses, in accordance with s. 112.061.

Section 81. Paragraph (h) of subsection (4) of section 420.9075, Florida Statutes, is amended to read:

420.9075 Local housing assistance programs; partnerships.—

(4) The following criteria apply to awards made to eligible sponsors or eligible persons for the purpose of providing eligible housing:

(h) The total amount of monthly mortgage payments or the amount of monthly rent charged by the eligible sponsor or her or his designee must be made affordable.

If both an award under the local housing assistance program and federal low-income housing tax credits are used to assist a project and there is a conflict between the criteria prescribed in this subsection and the requirements of s. 42 of the Internal Revenue Code of 1986, as amended, the county or eligible municipality may resolve the conflict by giving precedence to the requirements of s. 42 of the Internal Revenue Code of 1986, as amended, in lieu of following the criteria prescribed in this subsection with the exception of paragraphs (a) and (d) of this subsection.

Section 82. Subsections (1) and (2) of section 421.05, Florida Statutes, are amended to read:

421.05 Appointment, qualifications, and tenure of commissioners; hiring of employees.—

(1) When the governing body of a city adopts a resolution as aforesaid, the mayor, with the approval of the governing body, shall promptly appoint no fewer than five persons, and no more than seven persons, as commissioners of the authority created for such city. Three of the commissioners who are first appointed shall be designated to serve for terms of 1, 2, and 3 years respectively; the remaining commissioners shall be designated to serve for terms of 4 years each, from the date of their appointment. Thereafter, each commissioner shall be appointed as aforesaid for a term of office of 4 years, except that a vacancy shall be filled for the unexpired term by an appointment by the mayor with the approval of the governing body within 60 days after such vacancy occurs. Each housing authority created pursuant to this chapter shall have at least one commissioner who shall be a resident who is current in rent in a housing project or a person of low or very low income who resides within the housing authority's jurisdiction and is receiving rent subsidy through a program administered by the authority or public housing agency that has jurisdiction for the same locality served by the housing authority, which commissioner shall be appointed at the time a vacancy

exists. In the case of an authority which has no completed project, no tenant-commissioner shall be appointed until 10 percent of the units in the first project of the authority have been occupied. The cessation of a tenant-commissioner's tenancy in a housing project or the cessation of rent subsidy shall remove such tenant-commissioner from office, and another person meeting the qualifications required for the office shall be appointed for the unexpired portion of the term. After all reasonable efforts have been made and documented, if the commissioners find that no housing project resident or rent subsidy recipient is available to serve as a tenant-commissioner, the existing vacancy shall then be filled through the normal appointment procedures set forth in this subsection. However, such normal appointment shall not preclude the requirement to exercise diligence in all succeeding vacancies to attempt to first appoint a tenant-commissioner until at least one tenant-commissioner has been appointed. No commissioner of an authority may be an officer or employee of the city for which the authority is created. A commissioner shall hold office until a his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his or her services, but ~~he~~ shall be entitled to the necessary expenses, including travel expenses, incurred in the discharge of his or her duties. The requirements of this subsection with respect to the number of commissioners of a housing authority apply without regard to the date on which the housing authority was created.

(2) The powers of each authority shall be vested in the commissioners thereof in office from time to time. A majority of the commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case the bylaws of the authority require a larger number. The mayor with the concurrence of the governing body shall designate which of the commissioners appointed shall be the first ~~chair~~ chairman, but when the office of the chair ~~chairman~~ of the authority thereafter becomes vacant, the authority shall select a chair ~~chairman~~ from among its commissioners. An authority shall select from among its commissioners a vice chair ~~chairman~~; and it may employ a secretary, who shall be the executive director, technical experts, and such other officers, agents, and employees, permanent and temporary, as it may require and shall determine their qualifications, duties, and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the city or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

Section 83. Section 421.06, Florida Statutes, is amended to read:

421.06 Commissioners or employees prohibited from acquiring interests in housing projects and required to disclose interests in specified properties; exception.—Except for the leasehold interest held by a tenant-commissioner in the housing project in which he or she is a tenant, no commissioner or employee of an authority shall acquire any interest, direct or indirect, in any

housing project or in any property included or planned to be included in any project, nor shall he or she have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If a commissioner or employee of an authority owns or controls an interest, direct or indirect, in any property included or planned to be included in any housing project, he or she shall immediately disclose the same in writing to the authority. Such disclosure shall be entered upon the minutes of the authority. Failure so to disclose such interest constitutes misconduct in office.

Section 84. Section 421.07, Florida Statutes, is amended to read:

421.07 Removal of commissioners.—For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority may be removed by the mayor with the concurrence of the governing body, but a commissioner shall be removed only after he or she shall have been given a copy of the charges at least 10 days prior to the hearing thereon and had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk.

Section 85. Subsection (2) of section 421.19, Florida Statutes, is amended to read:

421.19 Additional remedies conferrable by authority.—An authority shall have power by its resolution, trust indenture, lease or other contract to confer upon any obligee holding or representing a specified amount in debentures, or holding a lease, the right, in addition to all rights that may otherwise be conferred, upon the happening of an event of default as defined in such resolution or instrument, by suit, action or proceeding in any court of competent jurisdiction:

(2) To obtain the appointment of a receiver of any housing project of said authority or any part thereof and of the rents and profits therefrom. If such receiver be appointed, he or she may enter and take possession of such housing project or any part thereof and operate and maintain same, and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom, and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligation of said authority as the court shall direct.

Section 86. Subsections (3) and (5) of section 421.30, Florida Statutes, are amended to read:

421.30 Commissioners of regional authorities.—

(3) A certificate of the appointment of any commissioner of a regional housing authority shall be filed with the county clerk of the county from which the commissioner is appointed, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. The commissioners of a regional housing authority shall be appointed for terms of 4 years, except that all vacancies shall be filled for the unexpired terms. Each commissioner shall hold office until a ~~his~~ successor has been appointed

and has qualified, except as otherwise provided herein. The Governor shall thereafter appoint the successor of each commissioner of a regional housing authority.

(5) The commissioners of a regional housing authority shall elect a ~~chairman~~ chair from among the commissioners and shall have power to select or employ such other officers and employees as the regional housing authority may require. A majority of the commissioners of a regional housing authority shall constitute a quorum of such authority for the purpose of conducting its business and exercising its powers and for all other purposes.

Section 87. Section 421.31, Florida Statutes, is amended to read:

421.31 Powers of regional housing authority; definitions.—Except as otherwise provided herein, a regional housing authority and the commissioners thereof shall, within the area of operation of such regional housing authority, have the same functions, rights, powers, duties, privileges and immunities provided for housing authorities created for cities or counties and the commissioners of such housing authorities in the same manner as though all the provisions of law applicable to housing authorities created for cities or counties were applicable to regional housing authorities; provided that for such purposes the term “mayor” as used in the Housing Authorities Law shall be construed as meaning “Governor,” the term “governing body” as used therein shall be construed as meaning “county commissioners,” the term “city” as used therein shall be construed as meaning “county” and the term “clerk” as used therein shall be construed as meaning “county clerk,” as herein defined, unless a different meaning clearly appears from the context; and provided further that the Governor may appoint any person as commissioner of a regional housing authority who is a qualified elector in the county from which he or she is appointed; and provided further that any commissioner of a regional housing authority may be removed or suspended in the same manner and for the same reason as other officers appointed by the Governor. A regional housing authority shall have power to select any appropriate corporate name.

Section 88. Section 421.33, Florida Statutes, is amended to read:

421.33 Housing applications by farmers.—The owner of any farm operated, or worked upon, by farmers of low income in need of safe and sanitary housing may file an application with a housing authority created for a county or a regional housing authority requesting that it provide for a safe and sanitary dwelling or dwellings for occupancy by such farmers of low income. Such applications shall be received and examined by housing authorities in connection with the formulation of projects or programs to provide housing for farmers of low income. Provided, however, that if it becomes necessary for an applicant under this paragraph to convey any portion of the applicant's ~~his~~ then homestead in order to take advantages as provided herein, then in that event, the parting with title to a portion of said homestead shall not affect the remaining portion of same, but all rights that said owner may have in and to same under and by virtue of the Constitution of the state or any law passed pursuant thereto, shall be deemed and held to apply to such remaining portion of said land, the title of which remains in

said applicant; it being the intention of the Legislature to permit the owner of any farm operated or worked upon by farmers of low income in need of safe and sanitary housing to take advantage of the provisions of this law without jeopardizing their rights in their then homestead by reason of any requirement that may be necessary in order for them to receive the benefits herein provided; and no court shall ever construe that an applicant who has taken advantage of this law has in any manner, shape or form abandoned his or her rights in any property that is the applicant's ~~his~~ then homestead by virtue of such action upon his or her part, but it shall be held, construed and deemed that such action upon the part of any applicant hereunder was not any abandonment of the applicant's ~~his~~ then homestead, and that all rights that the applicant ~~he~~ then had therein shall be and remain as provided by the Constitution and any law enacted pursuant thereto.

Section 89. Subsection (1) of section 421.44, Florida Statutes, is amended to read:

421.44 Defense housing; definitions.—

(1) "Persons engaged in national defense activities," as used in this law, shall include: Enlisted personnel ~~men~~ in the military and naval services of the United States and employees of the War and Navy Departments assigned to duty at military or naval reservations, posts or bases; and workers engaged or to be engaged in any industries connected with and essential to the national defense program; and shall include the families of the aforesaid persons who are living with them.

Section 90. Subsections (3) and (5) of section 421.50, Florida Statutes, are amended to read:

421.50 Decreasing area of operation of regional authority.—

(3) A certificate of the appointment of any commissioner of a regional housing authority shall be filed with the county clerk of the county from which the commissioner is appointed, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. The commissioners of a regional housing authority shall be appointed for terms of 4 years, except that all vacancies shall be filled for the unexpired terms. Each commissioner shall hold office until a ~~his~~ successor has been appointed and has qualified, except as otherwise provided herein. The Governor shall thereafter appoint the successor of each commissioner of a regional housing authority.

(5) The commissioners of a regional housing authority shall elect a chair ~~chairman~~ from among the commissioners and shall have power to select or employ such other officers and employees as the regional housing authority may require. A majority of the commissioners of a regional housing authority shall constitute a quorum of such authority for the purpose of conducting its business and exercising its powers and for all other purposes.

Section 91. Subsection (2) of section 425.045, Florida Statutes, is amended to read:

425.045 Meetings of trustees; records.—

(2) Every person who has custody of the records of a cooperative organized pursuant to this chapter, or any affiliated company or subsidiary thereof, shall permit the records to be inspected and examined by any member of such cooperative desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the records or the custodian's his designee. The custodian shall furnish a copy of the records upon payment of the actual cost of duplication of the records. This section shall not apply to records which constitute proprietary confidential business information as defined in s. 366.093.

Section 92. Subsection (1) of section 425.09, Florida Statutes, is amended to read:

425.09 Members.—

(1) No person who is not an incorporator shall become a member of a cooperative unless such person agrees to use electric energy furnished by the cooperative when such electric energy is available through its facilities. The bylaws of a cooperative may provide that any person, including an incorporator, shall cease to be a member thereof if he or she fails or refuses to use electric energy made available by the cooperative or if electric energy is not made available to such person by the cooperative within a specified time after such person has become a member thereof. Membership in the cooperative shall not be transferable, except as provided in the bylaws. The bylaws may prescribe additional qualifications and limitations in respect to membership.

Section 93. Subsection (2) of section 425.10, Florida Statutes, is amended to read:

425.10 Board of trustees.—

(2) The trustees of a cooperative named in any articles of incorporation, consolidation, merger or conversion, as the case may be, shall hold office until the next following annual meeting of the members or until their successors shall have been elected and qualified. At each annual meeting or, in case of failure to hold the annual meeting as specified in the bylaws, at a special meeting called for that purpose, the members shall elect trustees to hold office until the next following annual meeting of the members, except as hereinafter otherwise provided. Each trustee shall hold office for the term for which he or she is elected or until a his successor shall have been elected and qualified.

Section 94. Section 425.12, Florida Statutes, is amended to read:

425.12 Officers.—The officers of a cooperative shall consist of a president, vice president, secretary and treasurer, who shall be elected annually by and from the board of trustees. No person shall continue to hold any of the above offices after ~~ceasing he shall have ceased~~ to be a trustee. The offices of secretary and of treasurer may be held by the same person. The board of trustees may also elect or appoint such other officers, agents, or

employees as it shall deem necessary or advisable and shall prescribe the powers and duties thereof. Any officer may be removed from office and a his successor elected in the manner prescribed in the bylaws.

Section 95. Section 425.20, Florida Statutes, is amended to read:

425.20 Filing of articles.—Articles of incorporation, amendment, consolidation, merger, conversion, or dissolution, as the case may be, when executed and acknowledged and accompanied by such affidavits as may be required by applicable provisions of this chapter, shall be presented to the Department of State for filing in the records of its office. If the Department of State shall find that the articles presented conform to the requirements of this chapter, it shall upon the payment of the fees as in this chapter provided, file the articles so presented in the records of its office and upon such filing the incorporation, amendment, consolidation, merger, conversion, or dissolution provided for therein shall be in effect. The Department of State immediately upon the filing in its office of any articles pursuant to this chapter shall transmit a certified copy thereof to the county clerk of the county in which the principal office of each cooperative or corporation affected by such incorporation, amendment, consolidation, merger, conversion, or dissolution shall be located. The clerk of any county, upon receipt of any such certified copy, shall file and index the same in the records of his or her office, but the failure of the Department of State or of a clerk of a county to comply with the provisions of this section shall not invalidate such articles. The provisions of this section shall also apply to certificates of election to dissolve and affidavits of compliance executed pursuant to s. 425.19(2)(b).

Section 96. Paragraph (a) of subsection (3) of section 430.05, Florida Statutes, is amended to read:

430.05 Department of Elderly Affairs Advisory Council.—

(3)(a) The advisory council shall be composed of one member appointed by the Governor from each of the state's planning and service areas, which are designated in accordance with the Older Americans Act, two additional members appointed by the Governor, two members appointed by the President of the Senate, and two members appointed by the Speaker of the House of Representatives. The members shall be appointed in the following manner:

1. The Governor shall appoint one member from each planning and service area and shall select each appointment from a list of three nominations submitted by the designated area agency on aging in each planning and service area. Nominations submitted by an area agency on aging shall be solicited from a broad cross section of the public, private, and volunteer sectors of each county in the respective planning and service area. At least one of the three nominations submitted by an area agency on aging shall be a person 60 years of age or older.

2. The Governor shall appoint two additional members, one of whom shall be 60 years of age or older.

3. The President of the Senate shall appoint two members, one of whom shall be 60 years of age or older.

4. The Speaker of the House of Representatives shall appoint two members, one of whom shall be 60 years of age or older.

5. The Governor shall ensure that a majority of the members of the advisory council shall be 60 years of age or older and that there shall be balanced minority and gender representation.

6. The Governor shall designate annually a member of the advisory council to serve as chair ~~chairman~~.

7. The Secretary of Elderly Affairs shall serve as an ex officio member of the advisory council.

Section 97. Subsections (4), (5), and (6), paragraphs (b), (c), and (d) of subsection (13), paragraph (a) of subsection (15), subsections (16), (18), and (24), and paragraph (b) of subsection (31) of section 440.02, Florida Statutes, are amended to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(4) “Casual” as used in this section shall be taken to refer only to employments when the work contemplated is to be completed in not exceeding 10 working days, without regard to the number of persons ~~men~~ employed, and when the total labor cost of such work is less than \$100.

(5) “Child” includes a posthumous child, a child legally adopted prior to the injury of the employee, and a stepchild or acknowledged child born out of wedlock dependent upon the deceased, but does not include married children unless wholly dependent on the employee ~~him~~. “Grandchild” means a child as above defined of a child as above defined. “Brother” and “sister” include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but does not include married brothers or married sisters unless wholly dependent on the employee. “Child,” “grandchild,” “brother,” and “sister” include only persons who at the time of the death of the deceased employees are under 18 years of age, or under 22 years of age if a full-time student in an accredited educational institution.

(6) “Compensation” means the money allowance payable to an employee or to his or her dependents as provided for in this chapter.

(13)

(b) “Employee” includes any person who is an officer of a corporation and who performs services for remuneration for such corporation within this state, whether or not such services are continuous.

1. Any officer of a corporation may elect to be exempt from this chapter by filing written notice of the election with the division as provided in s. 440.05.

2. As to officers of a corporation who are actively engaged in the construction industry, no more than three officers may elect to be exempt from this chapter by filing written notice of the election with the division as provided in s. 440.05.

3. An officer of a corporation who elects to be exempt from this chapter by filing a written notice of the election with the division as provided in s. 440.05 is not an employee.

Services are presumed to have been rendered to the corporation if the officer is compensated by other than dividends upon shares of stock of the corporation which the officer ~~he~~ owns.

(c) "Employee" includes a sole proprietor or a partner who devotes full time to the proprietorship or partnership and, except as provided in this paragraph, elects to be included in the definition of employee by filing notice thereof as provided in s. 440.05. Partners or sole proprietors actively engaged in the construction industry are considered employees unless they elect to be excluded from the definition of employee by filing written notice of the election with the division as provided in s. 440.05. However, no more than three partners in a partnership that is actively engaged in the construction industry may elect to be excluded. A sole proprietor or partner who is actively engaged in the construction industry and who elects to be exempt from this chapter by filing a written notice of the election with the division as provided in s. 440.05 is not an employee. For purposes of this chapter, an independent contractor is an employee unless he or she meets all of the conditions set forth in subparagraph (d)1.

(d) "Employee" does not include:

1. An independent contractor, if:

a. The independent contractor maintains a separate business with his or her own work facility, truck, equipment, materials, or similar accommodations;

b. The independent contractor holds or has applied for a federal employer identification number, unless the independent contractor is a sole proprietor who is not required to obtain a federal employer identification number under state or federal requirements;

c. The independent contractor performs or agrees to perform specific services or work for specific amounts of money and controls the means of performing the services or work;

d. The independent contractor incurs the principal expenses related to the service or work that he or she performs or agrees to perform;

e. The independent contractor is responsible for the satisfactory completion of work or services that he or she performs or agrees to perform and is or could be held liable for a failure to complete the work or services;

- f. The independent contractor receives compensation for work or services performed for a commission or on a per-job or competitive-bid basis and not on any other basis;
- g. The independent contractor may realize a profit or suffer a loss in connection with performing work or services;
- h. The independent contractor has continuing or recurring business liabilities or obligations; and
- i. The success or failure of the independent contractor's business depends on the relationship of business receipts to expenditures.

However, the determination as to whether an individual included in the Standard Industrial Classification Manual of 1987, Industry Numbers 0711, 0721, 0722, 0751, 0761, 0762, 0781, 0782, 0783, 0811, 0831, 0851, 2411, 2421, 2435, 2436, 2448, or 2449, or a newspaper delivery person, is an independent contractor is governed not by the criteria in this paragraph but by common-law principles, giving due consideration to the business activity of the individual.

2. A real estate salesperson or agent, if that person agrees, in writing, to perform for remuneration solely by way of commission.

3. Bands, orchestras, and musical and theatrical performers, including disk jockeys, performing in licensed premises as defined in chapter 562, if a written contract evidencing an independent contractor relationship is entered into before the commencement of such entertainment.

4. An owner-operator of a motor vehicle who transports property under a written contract with a motor carrier which evidences a relationship by which the owner-operator assumes the responsibility of an employer for the performance of the contract, if the owner-operator is required to furnish the necessary motor vehicle equipment and all costs incidental to the performance of the contract, including, but not limited to, fuel, taxes, licenses, repairs, and hired help; and the owner-operator is paid a commission for his transportation service and is not paid by the hour or on some other time-measured basis.

5. A person whose employment is both casual and not in the course of the trade, business, profession, or occupation of the employer.

6. A volunteer, except a volunteer worker for the state or a county, municipality, or other governmental entity. A person who does not receive monetary remuneration for his services is presumed to be a volunteer unless there is substantial evidence that a valuable consideration was intended by both employer and employee. For purposes of this chapter, the term "volunteer" includes, but is not limited to:

a. Persons who serve in private nonprofit agencies and who receive no compensation other than expenses in an amount less than or equivalent to the standard mileage and per diem expenses provided to salaried employees in the same agency or, if such agency does not have salaried employees who

receive mileage and per diem, then such volunteers who receive no compensation other than expenses in an amount less than or equivalent to the customary mileage and per diem paid to salaried workers in the community as determined by the division; and

b. Volunteers participating in federal programs established under Pub. L. No. 93-113.

7. Any officer of a corporation who elects to be exempt from this chapter.

8. A sole proprietor or officer of a corporation who actively engages in the construction industry, and a partner in a partnership that is actively engaged in the construction industry, who elects to be exempt from the provisions of this chapter. Such sole proprietor, officer, or partner is not an employee for any reason until the notice of revocation of election filed pursuant to s. 440.05 is effective.

9. An exercise rider who does not work for a single horse farm or breeder, and who is compensated for riding on a case-by-case basis, provided a written contract is entered into prior to the commencement of such activity which evidences that an employee/employer relationship does not exist.

10. A taxicab, limousine, or other passenger vehicle-for-hire driver who operates said vehicles pursuant to a written agreement with a company which provides any dispatch, marketing, insurance, communications, or other services under which the driver and any fees or charges paid by the driver to the company for such services are not conditioned upon, or expressed as a proportion of, fare revenues.

(15)(a) "Employment," subject to the other provisions of this chapter, means any service performed by an employee for the person employing him or her.

(16) "Misconduct" includes, but is not limited to, the following, which shall not be construed in pari materia with each other:

(a) Conduct evincing such willful or wanton disregard of an employer's interests as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of the ~~his~~ employee; or

(b) Carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design, or to show an intentional and substantial disregard of an employer's interests or of the employee's duties and obligations to the ~~his~~ employer.

(18) "Parent" includes stepparents and parents by adoption, parents-in-law, and any persons who for more than 3 years prior to the death of the deceased employee stood in the place of a parent to him or her and were dependent on the injured employee.

(24) "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the injury and includes only the wages earned and reported for federal income tax

purposes on the job where the employee is injured and any other concurrent employment where he or she is also subject to workers' compensation coverage and benefits, together with the reasonable value of housing furnished to the employee by the employer which is the permanent year-round residence of the employee, and gratuities to the extent reported to the employer in writing as taxable income received in the course of employment from others than the employer and employer contributions for health insurance for the employee or the employee's dependents. However, housing furnished to migrant workers shall be included in wages unless provided after the time of injury. In employment in which an employee receives consideration for housing, the reasonable value of such housing compensation shall be the actual cost to the employer or based upon the Fair Market Rent Survey promulgated pursuant to s. 8 of the Housing and Urban Development Act of 1974, whichever is less. However, if employer contributions for housing or health insurance are continued after the time of the injury, the contributions are not "wages" for the purpose of calculating an employee's average weekly wage.

(31) "Insolvency" or "insolvent" means:

(b) With respect to an employee claiming insolvency pursuant to s. 440.25(5), a person is insolvent who:

1. Has ceased to pay his or her debts in the ordinary course of business and cannot pay his or her debts as they become due; or
2. Has been adjudicated insolvent pursuant to the federal bankruptcy law.

Section 98. Subsections (1) and (3) of section 440.04, Florida Statutes, are amended to read:

440.04 Waiver of exemption.—

(1) Every employer having in her or his employment any employee not included in the definition "employee" or excluded or exempted from the operation of this chapter may at any time waive such exclusion or exemption and accept the provisions of this chapter by giving notice thereof as provided in s. 440.05, and by so doing be as fully protected and covered by the provisions of this chapter as if such exclusion or exemption had not been contained herein.

(3) A corporate officer who has exempted herself or himself by proper notice from the operation of this chapter may at any time revoke such exemption and thereby accept the provisions of this chapter by giving notice as provided in s. 440.05.

Section 99. Subsection (3) of section 440.05, Florida Statutes, is amended to read:

440.05 Election of exemption; revocation of election; notice; certification.—

(3) Each sole proprietor, partner, or officer of a corporation who is actively engaged in the construction industry and who elects an exemption from this chapter or who, after electing such exemption, revokes that exemption, must mail a written notice to such effect to the division on a form prescribed by the division. The notice of election to be exempt from the provisions of this chapter must be notarized and under oath. The election must list the name, federal tax identification number, social security number, and all certified or registered licenses issued pursuant to chapter 489 held by the person seeking the exemption. The form must identify each sole proprietorship, partnership, or corporation that employs the person electing the exemption and must list the social security number or federal tax identification number of each such employer. In addition, the election form must provide that the sole proprietor, partner, or officer electing an exemption is not entitled to benefits under this chapter, must provide that the election does not exceed exemption limits for officers and partnerships provided in s. 440.02, and must certify that any employees of the sole proprietor, partner, or officer electing an exemption are covered by workers' compensation insurance. Upon receipt of the notice of the election to be exempt and a determination that the notice meets the requirements of this subsection, the division shall issue a certification of the election to the sole proprietor, partner, or officer. The certificate of election must list the names of the sole proprietorship, partnership, or corporation listed in the request for exemption. A new certificate of election must be obtained each time the person is employed by a new sole proprietorship, partnership, or corporation that is not listed on the certificate of election. A copy of the certificate of election must be sent to each workers' compensation carrier identified in the request for exemption. The certification of the election is valid until the sole proprietor, partner, or officer revokes her or his election. Upon filing a notice of revocation of election, a sole proprietor, partner, or officer who is a subcontractor must notify her or his contractor.

Section 100. Section 440.06, Florida Statutes, is amended to read:

440.06 Failure to secure compensation; effect.—Every employer who fails to secure the payment of compensation under this chapter as provided in s. 440.38 may not, in any suit brought against him or her by an employee subject to this chapter to recover damages for injury or death, defend such a suit on the grounds that the injury was caused by the negligence of a fellow servant, that the employee assumed the risk of his or her employment, or that the injury was due to the comparative negligence of the employee.

Section 101. Paragraph (d) of subsection (1) and paragraph (a) of subsection (7) of section 440.09, Florida Statutes, are amended to read:

440.09 Coverage.—

(1) The employer shall pay compensation or furnish benefits required by this chapter if the employee suffers an accidental injury or death arising out of work performed in the course and the scope of employment. The injury, its occupational cause, and any resulting manifestations or disability shall be established to a reasonable degree of medical certainty and by objective medical findings. Mental or nervous injuries occurring as a manifestation

of an injury compensable under this section shall be demonstrated by clear and convincing evidence.

(d) If an accident happens while the employee is employed elsewhere than in this state, which would entitle the employee ~~him~~ or his or her dependents to compensation if it had happened in this state, the employee or his or her dependents are entitled to compensation if the contract of employment was made in this state, or the employment was principally localized in this state. However, if an employee receives compensation or damages under the laws of any other state, the total compensation for the injury may not be greater than is provided in this chapter.

(7)(a) To ensure that the workplace is a drug-free environment and to deter the use of drugs and alcohol at the workplace, if the employer has reason to suspect that the injury was occasioned primarily by the intoxication of the employee or by the use of any drug, as defined in this chapter, which affected the employee to the extent that the employee's normal faculties were impaired, and the employer has not implemented a drug-free workplace pursuant to ss. 440.101 and 440.102, the employer may require the employee to submit to a test for the presence of any or all drugs or alcohol in his or her system.

Section 102. Subsections (1) and (3) of section 440.091, Florida Statutes, are amended to read:

440.091 Law enforcement officer; when acting within the course of employment.—If an employee:

(1) Is elected, appointed, or employed full time by a municipality, the state, or any political subdivision and is vested with authority to bear arms and make arrests and the employee's ~~his~~ primary responsibility is the prevention or detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state;

(3) Was not engaged in services for which he or she was paid by a private employer, and the employee ~~he~~ and his or her public employer had no agreement providing for workers' compensation coverage for that private employment;

the employee shall be deemed to have been acting within the course of employment. The term "employee" as used in this section includes all certified supervisory and command personnel whose duties include, in whole or in part, responsibilities for the supervision, training, guidance, and management of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

Section 103. Subsections (3) and (4) of section 440.092, Florida Statutes, are amended to read:

440.092 Special requirements for compensability; deviation from employment; subsequent intervening accidents.—

(3) **DEVIATION FROM EMPLOYMENT.**—An employee who is injured while deviating from the course of his employment, including leaving the employer's premises, is not eligible for benefits unless such deviation is expressly approved by the employer, or unless such deviation or act is in response to an emergency and designed to save life or property.

(4) **TRAVELING EMPLOYEES.**—An employee who is required to travel in connection with his or her employment who suffers an injury while in travel status shall be eligible for benefits under this chapter only if the injury arises out of and in the course of his employment while he or she is actively engaged in the duties of his employment. This subsection applies to travel necessarily incident to performance of the employee's job responsibility but does not include travel to and from work as provided in subsection (2).

Section 104. Paragraphs (a), (b), (c), and (g) of subsection (1) of section 440.10, Florida Statutes, are amended to read:

440.10 Liability for compensation.—

(1)(a) Every employer coming within the provisions of this chapter, including any brought within the chapter by waiver of exclusion or of exemption, shall be liable for, and shall secure, the payment to his or her employees, or any physician, surgeon, or pharmacist providing services under the provisions of s. 440.13, of the compensation payable under ss. 440.13, 440.15, and 440.16. Any contractor or subcontractor who engages in any public or private construction in the state shall secure and maintain compensation for his or her employees under this chapter as provided in s. 440.38.

(b) In case a contractor sublets any part or parts of his or her contract work to a subcontractor or subcontractors, all of the employees of such contractor and subcontractor or subcontractors engaged on such contract work shall be deemed to be employed in one and the same business or establishment; and the contractor shall be liable for, and shall secure, the payment of compensation to all such employees, except to employees of a subcontractor who has secured such payment.

(c) A contractor may require a subcontractor to provide evidence of workers' compensation insurance or a copy of his or her certificate of election. A subcontractor electing to be exempt as a sole proprietor, partner, or officer of a corporation shall provide a copy of his or her certificate of election to the his contractor.

(g) For purposes of this section, a person is conclusively presumed to be an independent contractor if:

1. The independent contractor provides the general contractor with an affidavit stating that he or she meets all the requirements of s. 440.02(13)(d); and

2. The independent contractor provides the general contractor with a valid certificate of workers' compensation insurance or a valid certificate of exemption issued by the division.

A sole proprietor, independent contractor, partner, or officer of a corporation who elects exemption from this chapter by filing a certificate of election under s. 440.05 may not recover benefits or compensation under this chapter.

Section 105. Paragraph (b) of subsection (3), paragraphs (a), (e), and (f) of subsection (4), and subsection (7) of section 440.105, Florida Statutes, are amended to read:

440.105 Prohibited activities; penalties.—

(3) Whoever violates any provision of this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) It shall be unlawful for any attorney or other person, in his or her individual capacity or in his or her capacity as a public or private employee, or for any firm, corporation, partnership, or association to receive any fee or other consideration or any gratuity from a person on account of services rendered for a person in connection with any proceedings arising under this chapter, unless such fee, consideration, or gratuity is approved by a judge of compensation claims or by the Chief Judge of Compensation Claims.

(4) Whoever violates any provision of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(a) It shall be unlawful for any employer to knowingly:

1. Present or cause to be presented any false, fraudulent, or misleading oral or written statement to any person as evidence of compliance with s. 440.38.

2. Make a deduction from the pay of any employee entitled to the benefits of this chapter for the purpose of requiring the employee to pay any portion of premium paid by ~~the~~ his employer to a carrier or to contribute to a benefit fund or department maintained by such employer for the purpose of providing compensation or medical services and supplies as required by this chapter.

3. Fail to secure payment of compensation if required to do so by this chapter.

(e) It shall be unlawful for any attorney or other person, in his or her individual capacity or in his or her capacity as a public or private employee, or any firm, corporation, partnership, or association, to knowingly assist, conspire with, or urge any person to fraudulently violate any of the provisions of this chapter.

(f) It shall be unlawful for any attorney or other person, in his or her individual capacity or in his or her capacity as a public or private employee or for any firm, corporation, partnership, or association, to unlawfully solicit any business in and about city or county hospitals, courts, or any public

institution or public place; in and about private hospitals or sanitariums; in and about any private institution; or upon private property of any character whatsoever for the purpose of making workers' compensation claims.

(7) All claim forms as provided for in this chapter shall contain a notice that clearly states in substance the following: "Any person who, knowingly and with intent to injure, defraud, or deceive any employer or employee, insurance company, or self-insured program, files a statement of claim containing any false or misleading information is guilty of a felony of the third degree." Each claimant shall personally sign the claim form and attest that he or she has reviewed, understands, and acknowledges the foregoing notice.

Section 106. Subsection (2) of section 440.1051, Florida Statutes, is amended to read:

440.1051 Fraud reports; civil immunity; criminal penalties.—

(2) Any person who reports workers' compensation fraud to the division under subsection (1) is immune from civil liability for doing so, and the person or entity alleged to have committed the fraud may not retaliate against him or her for providing such report, unless the person making the report knows it to be false.

Section 107. Subsection (1) of section 440.107, Florida Statutes, is amended to read:

440.107 Division powers to enforce employer compliance with coverage requirements.—

(1) Whenever the division determines that an employer who is required to secure the payment to his or her employees of the compensation provided for by this chapter has failed to do so, such failure shall be deemed an immediate serious danger to public health, safety, or welfare sufficient to justify service by the division of a stop-work order on the employer, requiring the cessation of all business operations at the place of employment or job site. The order shall take effect upon the date of service upon the employer, unless the employer provides evidence satisfactory to the division of having secured any necessary insurance or self-insurance and pays a civil penalty to the division, to be deposited by the division into the Workers' Compensation Administration Trust Fund, in the amount of \$100 per day for each day the employer was not in compliance with this chapter.

Section 108. Subsection (1) of section 440.11, Florida Statutes, is amended to read:

440.11 Exclusiveness of liability.—

(1) The liability of an employer prescribed in s. 440.10 shall be exclusive and in place of all other liability of such employer to any third-party tortfeasor and to the employee, the legal representative thereof, husband or wife, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from such employer at law or in admiralty on account of such injury or death, except that if an employer fails to secure payment of compensation as required by this chapter, an injured employee, or the legal

representative thereof in case death results from the injury, may elect to claim compensation under this chapter or to maintain an action at law or in admiralty for damages on account of such injury or death. In such action the defendant may not plead as a defense that the injury was caused by negligence of a fellow employee, that the employee assumed the risk of the employment, or that the injury was due to the comparative negligence of the employee. The same immunities from liability enjoyed by an employer shall extend as well to each employee of the employer when such employee is acting in furtherance of the employer's business and the injured employee is entitled to receive benefits under this chapter. Such fellow-employee immunities shall not be applicable to an employee who acts, with respect to a fellow employee, with willful and wanton disregard or unprovoked physical aggression or with gross negligence when such acts result in injury or death or such acts proximately cause such injury or death, nor shall such immunities be applicable to employees of the same employer when each is operating in the furtherance of the employer's business but they are assigned primarily to unrelated works within private or public employment. The same immunity provisions enjoyed by an employer shall also apply to any sole proprietor, partner, corporate officer or director, supervisor, or other person who in the course and scope of his or her duties acts in a managerial or policymaking capacity and the conduct which caused the alleged injury arose within the course and scope of said managerial or policymaking duties and was not a violation of a law, whether or not a violation was charged, for which the maximum penalty which may be imposed does not exceed 60 days' imprisonment as set forth in s. 775.082. The immunity from liability provided in this subsection extends to county governments with respect to employees of county constitutional officers whose offices are funded by the board of county commissioners.

Section 109. Subsection (2) of section 440.12, Florida Statutes, is amended to read:

440.12 Time for commencement and limits on weekly rate of compensation.—

(2) Compensation for disability resulting from injuries which occur after December 31, 1974, shall not be less than \$20 per week. However, if the employee's wages at the time of injury are less than \$20 per week, he or she shall receive his or her full weekly wages. If the employee's ~~his~~ wages at the time of the injury exceed \$20 per week, compensation shall not exceed an amount per week which is:

(a) Equal to 100 percent of the statewide average weekly wage, determined as hereinafter provided for the year in which the injury occurred; however, the increase to 100 percent from 66 $\frac{2}{3}$ percent of the statewide average weekly wage shall apply only to injuries occurring on or after August 1, 1979; and

(b) Adjusted to the nearest dollar.

For the purpose of this subsection, the "statewide average weekly wage" means the average weekly wage paid by employers subject to the Florida

Unemployment Compensation Law as reported to the department for the four calendar quarters ending each June 30, which average weekly wage shall be determined by the department on or before November 30 of each year and shall be used in determining the maximum weekly compensation rate with respect to injuries occurring in the calendar year immediately following. The statewide average weekly wage determined by the department shall be reported annually to the Legislature.

Section 110. Paragraphs (a), (e), and (f) of subsection (1) of section 440.14, Florida Statutes, are amended to read:

440.14 Determination of pay.—

(1) Except as otherwise provided in this chapter, the average weekly wages of the injured employee at the time of the injury shall be taken as the basis upon which to compute compensation and shall be determined, subject to the limitations of s. 440.12(2), as follows:

(a) If the injured employee has worked in the employment in which she ~~or~~ he was working at the time of the injury, whether for the same or another employer, during substantially the whole of 13 weeks immediately preceding the injury, her ~~or~~ his average weekly wage shall be one-thirteenth of the total amount of wages earned in such employment during the 13 weeks. As used in this paragraph, the term “substantially the whole of 13 weeks” shall be deemed to mean and refer to a constructive period of 13 weeks as a whole, which shall be defined as a consecutive period of 91 days, and the term “during substantially the whole of 13 weeks” shall be deemed to mean during not less than 90 percent of the total customary full-time hours of employment within such period considered as a whole.

(e) If it is established that the injured employee was under 22 years of age when injured and that under normal conditions her ~~or~~ his wages should be expected to increase during the period of disability, the fact may be considered in arriving at her ~~or~~ his average weekly wages.

(f) If it established that the injured employee was a part-time worker at the time of the injury, that she ~~or~~ he had adopted part-time employment as a ~~his~~ customary practice, and that under normal working conditions she ~~or~~ he probably would have remained a part-time worker during the period of disability, these factors shall be considered in arriving at her ~~or~~ his average weekly wages. For the purpose of this paragraph, the term “part-time worker” means an individual who customarily works less than the full-time hours or full-time workweek of a similar employee in the same employment.

Section 111. Paragraphs (a) and (b) of subsection (1) and subsection (3) of section 440.151, Florida Statutes, are amended to read:

440.151 Occupational diseases.—

(1)(a) Where the employer and employee are subject to the provisions of the Workers' Compensation Law, the disablement or death of an employee resulting from an occupational disease as hereinafter defined shall be treated as the happening of an injury by accident, notwithstanding any

other provisions of this chapter, and the employee or, in case of death, the employee's ~~his~~ dependents shall be entitled to compensation as provided by this chapter, except as hereinafter otherwise provided; and the practice and procedure prescribed by this chapter shall apply to all proceedings under this section, except as hereinafter otherwise provided. Provided, however, that in no case shall an employer be liable for compensation under the provisions of this section unless such disease has resulted from the nature of the employment in which the employee was engaged under such employer and was actually contracted while so engaged, meaning by "nature of the employment" that to the occupation in which the employee was so engaged there is attached a particular hazard of such disease that distinguishes it from the usual run of occupations, or the incidence of such disease is substantially higher in the occupation in which the employee was so engaged than in the usual run of occupations, or, in case of death, unless death follows continuous disability from such disease, commencing within the period above limited, for which compensation has been paid or awarded, or timely claim made as provided in this section, and results within 350 weeks after such last exposure.

(b) No compensation shall be payable for an occupational disease if the employee, at the time of entering into the employment of the employer by whom the compensation would otherwise be payable, falsely represents herself or himself in writing as not having previously been disabled, laid off or compensated in damages or otherwise, because of such disease.

(3) Except as hereinafter otherwise provided in this section, "disablement" means the event of an employee's becoming actually incapacitated, partially or totally, because of an occupational disease, from performing her or his work in the last occupation in which injuriously exposed to the hazards of such disease; and "disability" means the state of being so incapacitated.

Section 112. Subsections (1) and (2) of section 440.185, Florida Statutes, are amended to read:

440.185 Notice of injury or death; reports; penalties for violations.—

(1) An employee who suffers an injury arising out of and in the course of employment shall advise his or her employer of the injury within 30 days after the date of or initial manifestation of the injury. Failure to so advise the employer shall bar a petition under this chapter unless:

(a) The employer or the employer's agent had actual knowledge of the injury;

(b) The cause of the injury could not be identified without a medical opinion and the employee advised the employer within 30 days after obtaining a medical opinion indicating that the injury arose out of and in the course of employment;

(c) The employer did not put its employees on notice of the requirements of this section by posting notice pursuant to s. 440.055; or

(d) Exceptional circumstances, outside the scope of paragraph (a) or paragraph (b) justify such failure.

In the event of death arising out of and in the course of employment, the requirements of this subsection shall be satisfied by the employee's agent or estate. Documents prepared by counsel in connection with litigation, including but not limited to notices of appearance, petitions, motions, or complaints, shall not constitute notice for purposes of this section.

(2) Within 7 days after actual knowledge of injury or death, the employer shall report such injury or death to its carrier, in a format prescribed by the division, and shall provide a copy of such report to the employee or the employee's estate. The report of injury shall contain the following information:

- (a) The name, address, and business of the employer;
- (b) The name, social security number, street, mailing address, telephone number, and occupation of the employee;
- (c) The cause and nature of the injury or death;
- (d) The year, month, day, and hour when, and the particular locality where, the injury or death occurred; and
- (e) Such other information as the division may require.

The carrier shall, within 14 days after the employer's receipt of the form reporting the injury, file the information required by this subsection with the division in Tallahassee. However, the division may by rule provide for a different reporting system for those types of injuries which it determines should be reported in a different manner and for those cases which involve minor injuries requiring professional medical attention in which the employee does not lose more than 7 days of work as a result of the injury and is able to return to the ~~his~~ job immediately after treatment and resume ~~his~~ regular work.

Section 113. Subsection (6) of section 440.19, Florida Statutes, is amended to read:

440.19 Time bars to filing petitions for benefits.—

(6) When recovery is denied to any person in a suit brought at law or in admiralty to recover damages for injury or death on the ground that such person was an employee, that the defendant was an employer within the meaning of this chapter, and that such employer had secured compensation of such employee under this chapter, the limitations period set forth in this section shall begin to run from the date of termination of such suit; however, in such an event, the employer is allowed a credit of his or her actual cost of defending such suit in an amount not to exceed \$250, which amount must be deducted from any compensation allowed or awarded to the employee under this chapter.

Section 114. Paragraph (b) of subsection (2) of section 440.191, Florida Statutes, is amended to read:

440.191 Employee Assistance and Ombudsman Office.—

(2)

(b) If at any time the employer or its carrier fails to provide benefits to which the employee believes she or he is entitled, the employee shall contact the office to request assistance in resolving the dispute. The office shall investigate the dispute and shall attempt to facilitate an agreement between the employee and the employer or carrier. The employee, the employer, and the carrier shall cooperate with the office and shall timely provide the office with any documents or other information that it may require in connection with its efforts under this section.

Section 115. Subsection (1) and paragraph (g) of subsection (2) of section 440.192, Florida Statutes, are amended to read:

440.192 Procedure for resolving benefit disputes.—

(1) Subject to s. 440.191, any employee who has not received a benefit to which the employee ~~he~~ believes she or he is entitled under this chapter shall serve by certified mail upon the ~~his~~ employer, the employer's carrier, and the division in Tallahassee a petition for benefits that meets the requirements of this section. The division shall refer the petition to the Office of the Judges of Compensation Claims.

(2) The Office of the Judges of Compensation Claims shall review each petition and shall dismiss each petition, upon its own motion or upon the motion of any party, that does not on its face specifically identify or itemize the following:

(g) All travel costs to which the employee believes she or he is entitled, including dates of travel and purpose of travel, means of transportation, and mileage.

Section 116. Subsection (6), paragraph (b) of subsection (11), paragraphs (b), (c), and (d) of subsection (12), subsections (13) and (14), and paragraphs (b) and (c) of subsection (15) of section 440.20, Florida Statutes, are amended to read:

440.20 Time for payment of compensation; penalties for late payment.—

(6) If any installment of compensation for death or dependency benefits, disability, permanent impairment, or wage loss payable without an award is not paid within 7 days after it becomes due, as provided in subsection (2), subsection (3), or subsection (4), there shall be added to such unpaid installment a punitive penalty of an amount equal to 20 percent of the unpaid installment or \$5, which shall be paid at the same time as, but in addition to, such installment of compensation, unless notice is filed under subsection (4) or unless such nonpayment results from conditions over which the employer or carrier had no control. When any installment of compensation

payable without an award has not been paid within 7 days after it became due and the claimant concludes the prosecution of the claim before a judge of compensation claims without having specifically claimed additional compensation in the nature of a penalty under this section, the claimant he will be deemed to have acknowledged that, owing to conditions over which the employer or carrier had no control, such installment could not be paid within the period prescribed for payment and to have waived the ~~his~~ right to claim such penalty. However, during the course of a hearing, the judge of compensation claims shall on her or his own motion raise the question of whether such penalty should be awarded or excused. The division may assess without a hearing the punitive penalty against either the employer or the insurance carrier, depending upon who was at fault in causing the delay. The insurance policy cannot provide that this sum will be paid by the carrier if the division or the judge of compensation claims determines that the punitive penalty should be made by the employer rather than the carrier. Any additional installment of compensation paid by the carrier pursuant to this section shall be paid directly to the employee.

(11)

(b) Upon joint petition of all interested parties, a lump-sum payment in exchange for the employer's or carrier's release from liability for future medical expenses, as well as future payments of compensation and rehabilitation expenses, and any other benefits provided under this chapter, may be allowed at any time in any case after the injured employee has attained maximum medical improvement. An employer or carrier may not pay any attorney's fees on behalf of the claimant for any settlement, unless expressly authorized elsewhere in this chapter. A compensation order so entered upon joint petition of all interested parties shall not be subject to modification or review under s. 440.28. However, a judge of compensation claims is not required to approve any award for lump-sum payment when it is determined by the judge of compensation claims that the payment being made is in excess of the value of benefits the claimant would be entitled to under this chapter. The judge of compensation claims shall make or cause to be made such investigations as she or he considers necessary, in each case in which the parties have stipulated that a proposed final settlement of liability of the employer for compensation shall not be subject to modification or review under s. 440.28, to determine whether such final disposition will definitely aid the rehabilitation of the injured worker or otherwise is clearly for the best interests of the person entitled to compensation and, in her or his discretion, may have an investigation made by the Rehabilitation Section of the Division of Workers' Compensation. The joint petition and the report of any investigation so made will be deemed a part of the proceeding. An employer shall have the right to appear at any hearing pursuant to this subsection which relates to the discharge of such employer's liability and to present testimony at such hearing. The carrier shall provide reasonable notice to the employer of the time and date of any such hearing and inform the employer ~~him~~ of her or his rights to appear and testify. When the claimant is represented by counsel or when the claimant and carrier or employer are represented by counsel, final approval of the lump-sum settlement agreement, as provided for in a joint petition and stipulation, shall be approved by entry of an order within 7 days after the filing of such joint

petition and stipulation without a hearing, unless the judge of compensation claims determines, in her or his discretion, that additional testimony is needed before such settlement can be approved or disapproved and so notifies the parties. The probability of the death of the injured employee or other person entitled to compensation before the expiration of the period during which such person is entitled to compensation shall, in the absence of special circumstances making such course improper, be determined in accordance with the most recent United States Life Tables published by the National Office of Vital Statistics of the United States Department of Health and Human Services. The probability of the happening of any other contingency affecting the amount or duration of the compensation, except the possibility of the remarriage of a surviving spouse, shall be disregarded. As a condition of approving a lump-sum payment to a surviving spouse, the judge of compensation claims, in the judge of compensation claims' discretion, may require security which will ensure that, in the event of the remarriage of such surviving spouse, any unaccrued future payments so paid may be recovered or recouped by the employer or carrier. Such applications shall be considered and determined in accordance with s. 440.25.

(12)

(b) When the claimant has reached maximum recovery and returned to her or his former or equivalent employment with no substantial reduction in wages, such approval of a reasonable advance payment of a part of the compensation payable to the claimant may be given informally by letter by a judge of compensation claims, by the division director, or by the administrator of claims of the division.

(c) In the event the claimant has not returned to the same or equivalent employment with no substantial reduction in wages or has suffered a substantial loss of earning capacity or a physical impairment, actual or apparent:

1. An advance payment of compensation not in excess of \$2,000 may be approved informally by letter, without hearing, by any judge of compensation claims or the Chief Judge.

2. An advance payment of compensation not in excess of \$2,000 may be ordered by any judge of compensation claims after giving the interested parties an opportunity for a hearing thereon pursuant to not less than 10 days' notice by mail, unless such notice is waived, and after giving due consideration to the interests of the person entitled thereto. When the parties have stipulated to an advance payment of compensation not in excess of \$2,000, such advance may be approved by an order of a judge of compensation claims, with or without hearing, or informally by letter by any such judge of compensation claims, or by the division director, if such advance is found to be for the best interests of the person entitled thereto.

3. When the parties have stipulated to an advance payment in excess of \$2,000, subject to the approval of the division, such payment may be approved by a judge of compensation claims by order if the judge ~~he~~ finds that such advance payment is for the best interests of the person entitled thereto and is reasonable under the circumstances of the particular case. The judge

of compensation claims shall make or cause to be made such investigations as she or he considers necessary concerning the stipulation and, in her or his discretion, may have an investigation of the matter made by the Rehabilitation Section of the division. The stipulation and the report of any investigation shall be deemed a part of the record of the proceedings.

(d) When an application for an advance payment in excess of \$2,000 is opposed by the employer or carrier, it shall be heard by a judge of compensation claims after giving the interested parties not less than 10 days' notice of such hearing by mail, unless such notice is waived. In her or his discretion, the judge of compensation claims may have an investigation of the matter made by the Rehabilitation Section of the division, in which event the report and recommendation of that section will be deemed a part of the record of the proceedings. If the judge of compensation claims finds that such advance payment is for the best interests of the person entitled to compensation, will not materially prejudice the rights of the employer and carrier, and is reasonable under the circumstances of the case, she or he may order the same paid. However, in no event may any such advance payment under this paragraph be granted in excess of \$7,500 or 26 weeks of benefits in any 48-month period, whichever is greater, from the date of the last advance payment.

(13) If the employer has made advance payments of compensation, she or he shall be entitled to be reimbursed out of any unpaid installment or installments of compensation due.

(14) When an employee is injured and the employer pays the employee's his full wages or any part thereof during the period of disability, or pays medical expenses for such employee, and the case is contested by the carrier or the carrier and employer and thereafter the carrier, either voluntarily or pursuant to an award, makes a payment of compensation or medical benefits, the employer shall be entitled to reimbursement to the extent of the compensation paid or awarded, plus medical benefits, if any, out of the first proceeds paid by the carrier in compliance with such voluntary payment or award, provided the employer furnishes satisfactory proof to the judge of compensation claims of such payment of compensation and medical benefits. Any payment by the employer over and above compensation paid or awarded and medical benefits, pursuant to subsection (13), shall be considered a gratuity.

(15)

(b) As to any examination, investigation, or hearing being conducted under this chapter, the Secretary of Labor and Employment Security or the secretary's his designee:

1. May administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence; and

2. Shall have the power to subpoena witnesses, compel their attendance and testimony, and require by subpoena the production of books, papers, records, files, correspondence, documents, or other evidence which is relevant to the inquiry.

(c) If any person refuses to comply with any such subpoena or to testify as to any matter concerning which she or he may be lawfully interrogated, the Circuit Court of Leon County or of the county wherein such examination, investigation, or hearing is being conducted, or of the county wherein such person resides, may, on the application of the department, issue an order requiring such person to comply with the subpoena and to testify.

Section 117. Section 440.21, Florida Statutes, is amended to read:

440.21 Invalid agreements.—

(1) Any agreement by an employee to pay any portion of premium paid by her or his employer to a carrier or to contribute to a benefit fund or department maintained by the employer for the purpose of providing compensation or medical services and supplies as required by this chapter is invalid.

(2) An agreement by an employee to waive her or his right to compensation under this chapter is invalid.

Section 118. Paragraph (h) of subsection (4), paragraphs (b) and (c) of subsection (5), and subsection (7) of section 440.25, Florida Statutes, are amended to read:

440.25 Procedures for mediation and hearings.—

(4)

(h) Notwithstanding any other provision of this section, the judge of compensation claims may require the appearance of the parties and counsel before her or him without written notice for an emergency conference where there is a bona fide emergency involving the health, safety, or welfare of an employee. An emergency conference under this section may result in the entry of an order or the rendering of an adjudication by the judge of compensation claims.

(5)

(b) An appellant may be relieved of any necessary filing fee by filing a verified petition of indigency for approval as provided in s. 57.081(1) and may be relieved in whole or in part from the costs for preparation of the record on appeal if, within 15 days after the date notice of the estimated costs for the preparation is served, the appellant files with the judge of compensation claims a copy of the designation of the record on appeal, and a verified petition to be relieved of costs. A verified petition filed prior to the date of service of the notice of the estimated costs shall be deemed not timely filed. The verified petition relating to record costs shall contain a sworn statement that the appellant is insolvent and a complete, detailed, and sworn financial affidavit showing all the appellant's assets, liabilities, and income. Failure to state in the affidavit all assets and income, including marital assets and income, shall be grounds for denying the petition with prejudice. The division shall promulgate rules as may be required pursuant to this subsection, including forms for use in all petitions brought under this

subsection. The appellant's attorney, or the appellant if she or he is not represented by an attorney, shall include as a part of the verified petition relating to record costs an affidavit or affirmation that, in her or his opinion, the notice of appeal was filed in good faith and that there is a probable basis for the District Court of Appeal, First District, to find reversible error, and shall state with particularity the specific legal and factual grounds for the ~~his~~ opinion. Failure to so affirm shall be grounds for denying the petition. A copy of the verified petition relating to record costs shall be served upon all interested parties, including the division and the Office of the General Counsel, Department of Labor and Employment Security, in Tallahassee. The judge of compensation claims shall promptly conduct a hearing on the verified petition relating to record costs, giving at least 15 days' notice to the appellant, the division, and all other interested parties, all of whom shall be parties to the proceedings. The judge of compensation claims may enter an order without such hearing if no objection is filed by an interested party within 20 days from the service date of the verified petition relating to record costs. Such proceedings shall be conducted in accordance with the provisions of this section and with the workers' compensation rules of procedure, to the extent applicable. In the event an insolvency petition is granted, the judge of compensation claims shall direct the division to pay record costs and filing fees from the Workers' Compensation Trust Fund pending final disposition of the costs of appeal. The division may transcribe or arrange for the transcription of the record in any proceeding for which it is ordered to pay the cost of the record. In the event the insolvency petition is denied, the judge of compensation claims may enter an order requiring the petitioner to reimburse the division for costs incurred in opposing the petition, including investigation and travel expenses.

(c) As a condition of filing a notice of appeal to the District Court of Appeal, First District, an employer who has not secured the payment of compensation under this chapter in compliance with s. 440.38 shall file with the ~~his~~ notice of appeal a good and sufficient bond, as provided in s. 59.13, conditioned to pay the amount of the demand and any interest and costs payable under the terms of the order if the appeal is dismissed, or if the District Court of Appeal, First District, affirms the award in any amount. Upon the failure of such employer to file such bond with the judge of compensation claims or the District Court of Appeal, First District, along with the ~~his~~ notice of appeal, the District Court of Appeal, First District, shall dismiss the notice of appeal.

(7) An injured employee claiming or entitled to compensation shall submit to such physical examination by a certified expert medical advisor approved by the division or the judge of compensation claims as the division or the judge of compensation claims may require. The place or places shall be reasonably convenient for the employee. Such physician or physicians as the employee, employer, or carrier may select and pay for may participate in an examination if the employee, employer, or carrier so requests. Proceedings shall be suspended and no compensation shall be payable for any period during which the employee may refuse to submit to examination. Any interested party shall have the right in any case of death to require an autopsy, the cost thereof to be borne by the party requesting it; and the judge of compensation claims shall have authority to order and require an autopsy

and may, in her or his discretion, withhold her or his findings and award until an autopsy is held.

Section 119. Subsection (1) of section 440.33, Florida Statutes, is amended to read:

440.33 Powers of judges of compensation claims.—

(1) The judge of compensation claims may preserve and enforce order during any such proceeding; issue subpoenas for, administer oaths or affirmations to, and compel the attendance and testimony of witnesses, or the production of books, papers, documents, and other evidence, or the taking of depositions before any designated individual competent to administer oaths; examine witnesses; and do all things conformable to law which may be necessary to enable the judge ~~him~~ effectively to discharge the duties of her or his office. Whenever a law requires an order of a court of competent jurisdiction for the obtention of medical or hospital records, an order of a judge of compensation claims entered for such purposes shall be deemed to be an order of a court of competent jurisdiction.

Section 120. Subsections (1), (3), and (4) of section 440.34, Florida Statutes, are amended to read:

440.34 Attorney's fees; costs.—

(1) A fee, gratuity, or other consideration may not be paid for services rendered for a claimant in connection with any proceedings arising under this chapter, unless approved as reasonable by the judge of compensation claims or court having jurisdiction over such proceedings. Except as provided by this subsection, any attorney's fee approved by a judge of compensation claims for services rendered to a claimant must equal to 20 percent of the first \$5,000 of the amount of the benefits secured, 15 percent of the next \$5,000 of the amount of the benefits secured, 10 percent of the remaining amount of the benefits secured to be provided during the first 10 years after the date the claim is filed, and 5 percent of the benefits secured after 10 years. However, the judge of compensation claims shall consider the following factors in each case and may increase or decrease the attorney's fee if, in her or his judgment, the circumstances of the particular case warrant such action:

(a) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly.

(b) The fee customarily charged in the locality for similar legal services.

(c) The amount involved in the controversy and the benefits resulting to the claimant.

(d) The time limitation imposed by the claimant or the circumstances.

(e) The experience, reputation, and ability of the lawyer or lawyers performing services.

(f) The contingency or certainty of a fee.

(3) If the claimant should prevail in any proceedings before a judge of compensation claims or court, there shall be taxed against the employer the reasonable costs of such proceedings, not to include the attorney's fees of the claimant. A claimant shall be responsible for the payment of her or his own attorney's fees, except that a claimant shall be entitled to recover a reasonable attorney's fee from a carrier or employer:

(a) Against whom she or he successfully asserts a claim for medical benefits only, if the claimant has not filed or is not entitled to file at such time a claim for disability, permanent impairment, wage-loss, or death benefits, arising out of the same accident; or

(b) In any case in which the employer or carrier files a notice of denial with the division and the injured person has employed an attorney in the successful prosecution of the ~~his~~ claim; or

(c) In a proceeding in which a carrier or employer denies that an injury occurred for which compensation benefits are payable, and the claimant prevails on the issue of compensability; or

(d) In cases where the claimant successfully prevails in proceedings filed under s. 440.24 or s. 440.28.

In applying the factors set forth in subsection (1) to cases arising under paragraphs (a), (b), (c), and (d), the judge of compensation claims must only consider only such benefits and the time reasonably spent in obtaining them as were secured for the claimant within the scope of paragraphs (a), (b), (c), and (d).

(4) In such cases in which the claimant is responsible for the payment of her or his own attorney's fees, such fees are a lien upon compensation payable to the claimant, notwithstanding s. 440.22.

Section 121. Paragraph (b) of subsection (1) of section 440.38, Florida Statutes, is amended to read:

440.38 Security for compensation; insurance carriers and self-insurers.—

(1) Every employer shall secure the payment of compensation under this chapter:

(b) By furnishing satisfactory proof to the division of her or his financial ability to pay such compensation and receiving an authorization from the division to pay such compensation directly in accordance with the following provisions:

1. The division may, as a condition to such authorization, require such employer to deposit in a depository designated by the division either an indemnity bond or securities, at the option of the employer, of a kind and in an amount determined by the division and subject to such conditions as

the division may prescribe, which shall include authorization to the division in the case of default to sell any such securities sufficient to pay compensation awards or to bring suit upon such bonds, to procure prompt payment of compensation under this chapter. In addition, the division shall require, as a condition to authorization to self-insure, proof that the employer has provided for competent personnel with whom to deliver benefits and to provide a safe working environment. Further, the division shall require such employer to carry reinsurance at levels that will ensure the actuarial soundness of such employer in accordance with rules promulgated by the division. The division may by rule require that, in the event of an individual self-insurer's insolvency, such indemnity bonds, securities, and reinsurance policies shall be payable to the Florida Self-Insurers Guaranty Association, Incorporated, created pursuant to s. 440.385. Any employer securing compensation in accordance with the provisions of this paragraph shall be known as a self-insurer and shall be classed as a carrier of her or his own insurance.

2. If the employer fails to maintain the foregoing requirements, the division shall revoke the employer's authority to self-insure, unless the employer provides to the division the certified opinion of an independent actuary who is a member of the American Society of Actuaries as to the actuarial present value of the employer's determined and estimated future compensation payments based on cash reserves, using a 4-percent discount rate, and a qualifying security deposit equal to 1.5 times the value so certified. The employer shall thereafter annually provide such a certified opinion until such time as the employer meets the requirements of subparagraph 1. The qualifying security deposit shall be adjusted at the time of each such annual report. Upon the failure of the employer to timely provide such opinion or to timely provide a security deposit in an amount equal to 1.5 times the value certified in the latest opinion, the division shall then revoke such employer's authorization to self-insure, and such failure shall be deemed to constitute an immediate serious danger to the public health, safety, or welfare sufficient to justify the summary suspension of the employer's authorization to self-insure pursuant to s. 120.68.

3. Upon the suspension or revocation of the employer's authorization to self-insure, the employer shall provide to the division and to the Florida Self-Insurers Guaranty Association, Incorporated, created pursuant to s. 440.385 the certified opinion of an independent actuary who is a member of the American Society of Actuaries of the actuarial present value of the determined and estimated future compensation payments of the employer for claims incurred while the member exercised the privilege of self-insurance, using a discount rate of 4 percent. The employer shall provide such an opinion at 6-month intervals thereafter until such time as the latest opinion shows no remaining value of claims. With each such opinion, the employer shall deposit with the division a qualifying security deposit in an amount equal to the value certified by the actuary. The association has a cause of action against an employer, and against any successor of the employer, who fails to timely provide such opinion or who fails to timely maintain the required security deposit with the division. The association shall recover a judgment in the amount of the actuarial present value of the determined and

estimated future compensation payments of the employer for claims incurred while the employer exercised the privilege of self-insurance, together with attorney's fees. For purposes of this section, the successor of an employer means any person, business entity, or group of persons or business entities, which holds or acquires legal or beneficial title to the majority of the assets or the majority of the shares of the employer.

4. A qualifying security deposit shall consist, at the option of the employer, of:

a. Surety bonds, in a form and containing such terms as prescribed by the division, issued by a corporation surety authorized to transact surety business by the Department of Insurance, and whose policyholders' and financial ratings, as reported in A.M. Best's Insurance Reports, Property-Liability, are not less than "A" and "V", respectively.

b. Certificates of deposit with financial institutions, the deposits of which are insured through the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

c. Irrevocable letters of credit in favor of the division issued by financial institutions described in sub-subparagraph b.

d. Direct obligations of the United States Treasury backed by the full faith and credit of the United States.

e. Securities issued by this state and backed by the full faith and credit of this state.

5. The qualifying security deposit shall be held by the division, or by a depository authorized by the division, exclusively for the benefit of workers' compensation claimants. The security shall not be subject to assignment, execution, attachment, or any legal process whatsoever, except as necessary to guarantee the payment of compensation under this chapter. No surety bond may be terminated, and no other qualifying security may be allowed to lapse, without 90 days' prior notice to the division and deposit by the self-insuring employer of other qualifying security of equal value within 10 business days after such notice. Failure to provide such notice or failure to timely provide qualifying replacement security after such notice shall constitute grounds for the division to call or sue upon the surety bond, or to act with respect to other pledged security in any manner necessary to preserve its value for the purposes intended by this section, including the exercise of rights under a letter of credit, the sale of any security at then prevailing market rates, or the withdrawal of any funds represented by any certificate of deposit forming part of the qualifying security deposit;

Section 122. Subsection (6) of section 440.381, Florida Statutes, is amended to read:

440.381 Application for coverage; reporting payroll; payroll audit procedures; penalties.—

(6) If an employer intentionally understates or conceals payroll, or misrepresents or conceals employee duties so as to avoid proper classification

for premium calculations, or misrepresents or conceals information pertinent to the computation and application of an experience rating modification factor, the employer, or the employer's ~~his~~ agent or attorney, shall pay to the insurance carrier a penalty of 10 times the amount of the difference in premium paid and the amount the employer should have paid and reasonable attorney's fees. The penalty may be enforced in the circuit courts of this state.

Section 123. Paragraph (b) of subsection (1), paragraph (c) of subsection (3), and paragraph (a) of subsection (7) of section 440.385, Florida Statutes, are amended to read:

440.385 Florida Self-Insurers Guaranty Association, Incorporated.—

(1) CREATION OF ASSOCIATION.—

(b) A member may voluntarily withdraw from the association when the member voluntarily terminates the self-insurance privilege and pays all assessments due to the date of such termination. However, the withdrawing member shall continue to be bound by the provisions of this section relating to the period of his or her membership and any claims charged pursuant thereto. The withdrawing member who is a member on or after January 1, 1991, shall also be required to provide to the division upon withdrawal, and at 12-month intervals thereafter, satisfactory proof that it continues to meet the standards of s. 440.38(1)(b)1. in relation to claims incurred while the withdrawing member exercised the privilege of self-insurance. Such reporting shall continue until the withdrawing member satisfies the division that there is no remaining value to claims incurred while the withdrawing member was self-insured. If during this reporting period the withdrawing member fails to meet the standards of s. 440.38(1)(b)1., the withdrawing member who is a member on or after January 1, 1991, shall thereupon, and at 6-month intervals thereafter, provide to the division and the association the certified opinion of an independent actuary who is a member of the American Society of Actuaries of the actuarial present value of the determined and estimated future compensation payments of the member for claims incurred while the member was a self-insurer, using a discount rate of 4 percent. With each such opinion, the withdrawing member shall deposit with the division security in an amount equal to the value certified by the actuary and of a type that is acceptable for qualifying security deposits under s. 440.38(1)(b). The withdrawing member shall continue to provide such opinions and to provide such security until such time as the latest opinion shows no remaining value of claims. The association has a cause of action against a withdrawing member, and against any successor of a withdrawing member, who fails to timely provide the required opinion or who fails to maintain the required deposit with the division. The association shall be entitled to recover a judgment in the amount of the actuarial present value of the determined and estimated future compensation payments of the withdrawing member for claims incurred during the time that the withdrawing member exercised the privilege of self-insurance, together with reasonable attorney's fees. For purposes of this section, the successor of a withdrawing member means any person, business entity, or group of persons or business entities, which holds or acquires legal or beneficial title to the majority of the assets or the majority of the shares of the withdrawing member.

(3) POWERS AND DUTIES.—

(c)1. To the extent necessary to secure funds for the payment of covered claims and also to pay the reasonable costs to administer them, the Department of Labor and Employment Security, upon certification of the board of directors, shall levy assessments based on the annual normal premium each employer would have paid had the employer ~~he~~ not been self-insured. Every assessment shall be made as a uniform percentage of the figure applicable to all individual self-insurers, provided that the assessment levied against any self-insurer in any one year shall not exceed 1 percent of the annual normal premium during the calendar year preceding the date of the assessment. Assessments shall be remitted to and administered by the board of directors in the manner specified by the approved plan. Each employer so assessed shall have at least 30 days' written notice as to the date the assessment is due and payable. The association shall levy assessments against any newly admitted member of the association so that the basis of contribution of any newly admitted member is the same as previously admitted members, provision for which shall be contained in the plan of operation.

2. If, in any one year, funds available from such assessments, together with funds previously raised, are not sufficient to make all the payments or reimbursements then owing, the funds available shall be prorated, and the unpaid portion shall be paid as soon thereafter as sufficient additional funds become available.

3. No state funds of any kind shall be allocated or paid to the association or any of its accounts except those state funds accruing to the association by and through the assignment of rights of an insolvent employer.

(7) EFFECT OF PAID CLAIMS.—

(a) Any person who recovers from the association under this section shall be deemed to have assigned his or her rights to the association to the extent of such recovery. Every claimant seeking the protection of this section shall cooperate with the association to the same extent as such person would have been required to cooperate with the insolvent member. The association shall have no cause of action against the employee of the insolvent member for any sums the association has paid out, except such causes of action as the insolvent member would have had if such sums had been paid by the insolvent member. In the case of an insolvent member operating on a plan with assessment liability, payments of claims by the association shall not operate to reduce the liability of the insolvent member to the receiver, liquidator, or statutory successor for unpaid assessments.

Section 124. Paragraph (d) of subsection (5), paragraph (a) of subsection (9), and paragraph (b) of subsection (11) of section 440.386, Florida Statutes, are amended to read:

440.386 Individual self-insurers' insolvency; conservation; liquidation.—

(5) PROCEDURE IN LIQUIDATIONS OF INDIVIDUAL SELF-INSURER BY COURT.—

(d) A receiver of an individual self-insurer appointed under the provisions of this section shall have authority to sue and defend in all courts in her or his own name as receiver of such individual self-insurer. The court appointing such receiver shall have exclusive jurisdiction of the individual self-insurer and its property, wherever situated.

(9) VOIDABLE TRANSFERS.—

(a) Any transfer of, or lien upon, the property of an individual self-insurer which is made or created within 4 months prior to the granting of an order to show cause under this section with the intent of giving to any creditor a preference or of enabling the creditor him to obtain a greater percentage of her or his debt than any other creditor of the same class, and which is accepted by such creditor having reasonable cause to believe that such preference will occur, shall be voidable.

(11) TRANSFERS AFTER PETITION.—

(b) After the original petition for a delinquency proceeding has been filed and before an order of conservation or liquidation is granted:

1. A transfer of any of the property of the individual self-insurer, other than real property, made to a person acting in good faith shall be valid against the receiver if made for a present fair equivalent value, or, if not made for a present fair equivalent value, then to the extent of the present consideration actually paid therefor, for which amount the transferee shall have a lien on the property so transferred.

2. A person indebted to the individual self-insurer or holding property of the individual self-insurer may, if acting in good faith, pay the indebtedness or deliver the property or any part thereof to the individual self-insurer or upon her or his order, with the same effect as if the petition were not pending.

Section 125. Section 440.40, Florida Statutes, is amended to read:

440.40 Compensation notice.—Every employer who has secured compensation under the provisions of this chapter shall keep posted in a conspicuous place or places in and about her or his place or places of business typewritten or printed notices, in accordance with a form prescribed by the division, stating that such employer has secured the payment of compensation in accordance with the provisions of this chapter. Such notices shall contain the name and address of the carrier, if any, with whom the employer has secured payment of compensation and the date of the expiration of the policy.

Section 126. Paragraphs (c) and (d) of subsection (2) of section 440.4416, Florida Statutes, are amended to read:

440.4416 Workers' Compensation Oversight Board.—

(2) POWERS AND DUTIES; ORGANIZATION.—

(c) The board shall select a ~~chair~~ chairman who shall serve for a period of 2 years and until a successor is elected and qualified. The ~~chair~~ chairman shall be the chief administrative officer of the board and shall have the authority to plan, direct, coordinate, and execute the powers and duties of the board.

(d) The board shall hold such meetings during the year as it deems necessary, except that the ~~chair~~ chairman, a quorum of the board, or the division may call meetings. The board shall maintain transcripts of each meeting. Such transcripts shall be available to any interested person in accordance with chapter 119.

Section 127. Subsections (1), (2), (3), (4), and (5) and paragraph (a) of subsection (6) of section 440.442, Florida Statutes, are amended to read:

440.442 Code of Judicial Conduct.—The Chief Judge, and judges of compensation claims shall observe and abide by the Code of Judicial Conduct as provided in this section. Any material violation of a provision of the Code of Judicial Conduct shall constitute either malfeasance or misfeasance in office and shall be grounds for suspension and removal of such Chief Judge, or judge of compensation claims by the Governor.

(1) A JUDGE SHOULD UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY.—An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should himself or herself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this code should be construed and applied to further that objective.

(2) A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL ~~HIS~~ ACTIVITIES.—

(a) A judge should respect and comply with the law and should conduct himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

(b) A judge should not allow his or her personal relationships to influence his or her judicial conduct of judgment. A judge should not lend the prestige of the office to advance the private interest of others; nor ~~should he~~ convey or authorize others to convey the impression that they are in a special position to influence him or her. A judge should not testify voluntarily as a character witness.

(3) A JUDGE SHOULD PERFORM THE DUTIES OF ~~HIS~~ OFFICE IMPARTIALLY AND DILIGENTLY.—The judicial duties of a judge take precedence over all his or her other activities. The judicial duties include all the duties of ~~his~~ office prescribed by law. In the performance of these duties, the following standards with respect to adjudicative responsibilities apply:

(a) A judge should be faithful to the law and maintain professional competence in it. A judge should be unswayed by partisan interests, public clamor, or fear of criticism.

(b) A judge should maintain order and decorum in proceedings.

(c) A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom he or she must deal in an official capacity, and should request similar conduct of lawyers, and of his or her staff, court officials, and others subject to his or her direction and control.

(4) A JUDGE MAY ENGAGE IN ACTIVITIES TO IMPROVE THE LAW, THE LEGAL SYSTEM, AND THE ADMINISTRATION OF JUSTICE.—A judge, subject to the proper performance of his or her judicial duties, may engage in the following quasi-judicial activities, if in doing so he or she does not cast doubt on his or her capacity to decide impartially on any issue that may come before him or her:

(a) Speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice.

(b) Appear at a public hearing before an executive or legislative body or official on matters concerning the law, the legal system, and the administration of justice, and may otherwise consult with an executive or legislative body or official, but only on matters concerning the administration of justice.

(c) Serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice and assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fundraising activities.

(d) Make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice.

(5) A JUDGE SHOULD REGULATE HIS EXTRAJUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH HIS JUDICIAL DUTIES.—

(a) Avocational activities.—A judge may write, lecture, teach, and speak on nonlegal subjects, and engage in the arts, sports, or other social and recreational activities, if such avocational activities do not detract from the dignity of the office or interfere with the performance of his judicial duties.

(b) Civil and charitable activities.—A judge may not participate in civic and charitable activities that reflect adversely upon his or her impartiality or interfere with the performance of his or her duties. A judge may serve as an officer, director, trustee, or nonlegal advisory of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

1. A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before him or her or will be regularly engaged in adversary proceedings in any court.

2. A judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige

of the office for that purpose, but may be listed as an officer, director, or trustee of such an organization. A judge should not be a speaker or a guest of honor at any organization's fundraising events, but may attend such events.

3. A judge should not give investment advice to such an organization, but may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.

(c) Financial activities.—

1. A judge should refrain from financial and business dealings that tend to reflect adversely on his or her impartiality, interfere with the proper performance of his or her judicial duties, exploit his or her judicial position, or involve the judge him in frequent transactions with lawyers or persons likely to come before the court on which he or she serves.

2. Subject to the requirements of subsection (1), a judge in an individual or corporate capacity may hold and manage investments, including real estate, and engage in other remunerative activity, but should not serve as an officer, director, manager, advisor, or employee of any business, except a closely held family business that does not conflict with subsection (1).

3. A judge should manage his or her investments and other financial interests to minimize the number of cases in which he or she is disqualified. As soon as the judge he can do so without serious financial detriment, he or she should divest himself or herself of investments and other financial interests that might require frequent disqualifications.

4. A judge should not accept a gift, bequest, favor, or loan from anyone except as follows:

a. A judge may accept a gift incident to a public testimonial to him or her; books supplied by publishers on a complimentary basis for official use; or an invitation to the judge and spouse to attend a bar-related function or activity devoted to the improvement of the law, the legal system, or the administration of justice;

b. A judge may accept ordinary hospitality; a gift, bequest, favor, or loan from a relative; a wedding or an engagement gift; a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges; or a scholarship or fellowship awarded on the same terms applied to other applicants;

c. A judge may accept any other gift, bequest, favor, or loan exceeding \$100 only if the donor is not a party or other person whose interests have recently come or may likely come before him or her in the immediate future.

5. A judge should make a reasonable effort to be informed ~~inform himself~~ about the personal financial interests of members of his or her family residing in the judge's ~~his~~ household and shall report any gift, bequest, favor, or loan received thereby of which he or she has knowledge and which tends to reflect adversely on his or her impartiality, in the same manner as he or she reports compensation in subsection (6).

6. For the purpose of this section, “member of his or her family residing in the judge’s ~~his~~ household” means any relative of a judge by blood or marriage, or a person treated by a judge as a member of his or her family, who resides in the judge’s ~~his~~ household.

7. A judge is not required by this section to disclose his or her income, debts, or investments, except as provided in subsections (3) and (6).

8. Information required by a judge in which his or her judicial capacity should not be used or disclosed by the judge ~~him~~ in financial dealings or for any other purpose not related to his or her judicial duties.

(6) Fiscal matters of a judge should be conducted in a manner that will not give the appearance of influence or impropriety. A judge should regularly file public reports as required by s. 8, Art. II of the State Constitution, and should publicly report gifts.

(a) Compensation for quasi-judicial and extrajudicial services and reimbursement of expenses.—A judge may receive compensation and reimbursement of expenses for the quasi-judicial and extrajudicial activities permitted by this section, if the source of such payments does not give the appearance of influencing the judge in his or her judicial duties or otherwise give the impression of impropriety subject to the following restrictions:

1. Compensation: Compensation should not exceed a reasonable amount nor should it exceed what a person who is not a judge would receive for the same activity.

2. Expense reimbursement: Expense reimbursement should be limited to the actual cost of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, to his or her spouse. Any payment in excess of such an amount is compensation.

Section 128. Subsections (3) and (10) of section 440.51, Florida Statutes, are amended to read:

440.51 Expenses of administration.—

(3) If any carrier fails to pay the amounts assessed against him or her under the provisions of this section within 60 days from the time such notice is served upon him or her, the Department of Insurance upon being advised by the division may suspend or revoke the authorization to insure compensation in accordance with the procedure in s. 440.38(3)(a).

(10) In every case where the duration of disability exceeds 30 days, the carrier shall establish a sufficient reserve to pay all benefits to which the injured employee, or in case of death, his or her dependents, may be entitled to under the law. In establishing the reserve, consideration shall be given to the nature of the injury, the probable period of disability, and the estimated cost of medical benefits.

Section 129. Section 441.01, Florida Statutes, is amended to read:

441.01 Trust for employees.—A trust created by an employer as part of a stock bonus plan, pension plan, disability or death benefit plan, or profit sharing plan, for the exclusive benefit of some or all of his or her employees, to which contributions are made by such employer or employees, or both for the purpose of distributing to such employees the earnings or the principal, or both earnings and principal, of the fund so held in trust, shall not be deemed to be invalid as violating any existing law against perpetuities or suspension of the power of alienation of title to property; but such a trust may continue for such time as may be necessary to accomplish the purposes for which it may be created.

Section 130. Paragraph (b) of subsection (2) of section 442.018, Florida Statutes, is amended to read:

442.018 Employee rights and responsibilities.—

(2) An employer may not discharge, threaten to discharge, cause to be discharged, intimidate, coerce, otherwise discipline, or in any manner discriminate against an employee for any of the following reasons:

(b) The employee has testified or is about to testify, on her or his own behalf, or on behalf of others, in any proceeding instituted under this chapter;

Section 131. Section 442.101, Florida Statutes, is amended to read:

442.101 Legislative intent concerning toxic substances encountered in the course of employment.—It is found and declared that there exists a danger to the health of employees and their families throughout the state because of exposure to toxic substances encountered in the course of employment. Sometimes the tragic results of this exposure may not be realized for years or even for generations. Because of this, it is necessary to require employers to give notice to each employee of the toxic substances involved in her or his employment which may endanger or cause death to the employee or members of the employee's family. It is further found and declared that an employee has an inherent right to know about the toxic substances at her or his workplace so that she or he may make more knowledgeable and reasoned decisions with respect to the continued personal costs of her or his employment and the need for corrective action. It is also found and declared that the workplace often provides an early warning mechanism for the rest of the environment. The Legislature intends, by this act, to ensure that employees be given information concerning the nature of the toxic substances with which they are working.

Section 132. Subsection (8) of section 442.102, Florida Statutes, is amended to read:

442.102 Definitions.—As used in ss. 442.101-442.127, the term:

(8) “Employer” means any person, firm, corporation, partnership, association, or other entity engaged in a business or in providing services, including the state and any of its political subdivisions, that manufactures, produces, uses, applies, or stores toxic substances. An independent contractor

or subcontractor shall be deemed the sole employer of her or his employees, even when her or his employees are performing work at the workplace of another employer. The term “employer” does not include:

(a) Employers employing two or fewer employees.

(b) Employers of domestic workers in private homes.

(c) Bona fide farmers or an association of farmers employing employees in agricultural labor performed on a farm, or in the onsite packing facilities for agricultural products from such farms, who employ 12 or fewer regular employees and who employ 24 or fewer other employees at one time for seasonal or occasional agricultural labor that is completed in less than 30 continuous days, provided such seasonal or occasional employment does not exceed 60 days in the same calendar year. The term “farm” includes stock, dairy, poultry, fruit, fur-bearing animal, fish, and truck farms, ranches, nurseries, and orchards. The term “agricultural labor” includes field foremen, timekeepers, checkers, and other farm labor supervisory personnel.

(d) Employers of professional athletes, such as professional boxers and wrestlers and professional baseball, football, basketball, hockey, polo, tennis, jai alai, and similar players.

(e) Employers employing labor under court sentences requiring the performance of community services as provided in s. 316.193.

Section 133. Subsection (3) of section 442.103, Florida Statutes, is amended to read:

442.103 Florida Substance List; establishment, content, and revision.—

(3) For the purposes of ss. 442.101-442.127, a toxic substance is present in any mixture if it is 1 percent or more of the mixture, or 2 percent or more of the mixture if the toxic substance exists as an impurity in the mixture. However, the secretary may, by rule, raise the concentration requirement for a toxic substance which she or he finds is not toxic at the threshold levels, and she or he may lower the concentration requirement for a toxic substance, including a carcinogen or neurotoxin, for which there is valid and substantial scientific evidence that the substance is extraordinarily toxic. The manufacturer of a toxic substance shall notify the secretary of any valid evidence which indicates either:

(a) That the concentration requirement for a toxic substance is higher than is necessary to protect employees who work with, or may be exposed to, the substance; or

(b) That the concentration levels should be lowered because there is valid and substantial evidence that the substance is extraordinarily toxic.

Section 134. Paragraphs (a) and (c) of subsection (1) of section 442.105, Florida Statutes, are amended to read:

442.105 Toxic Substances Advisory Council; function; membership; meetings; recommendations.—

(1) There is created a state Toxic Substances Advisory Council to assist the secretary in reviewing and preparing the Florida Substance List.

(a) The council shall consist of nine members, including four technically qualified employer representatives, four technically qualified employee representatives, and one member to be selected by the secretary to serve as chair ~~chairman~~.

(c) The council shall meet at the call of its chair ~~chairman~~, at the request of a majority of its membership, at the request of the secretary, or at such times as may be prescribed by its rules, but not less than twice a year. The council shall make a report of each meeting, which shall include a record of its discussions and recommendations. The secretary shall make such reports available to any interested person or group.

Section 135. Paragraph (a) of subsection (3) of section 442.106, Florida Statutes, is amended to read:

442.106 Manufacturer, importer, or distributor of toxic substance to provide material safety data sheet; mixture material safety data sheets; exceptions.—

(3) Any person who is subject to the provisions of this section shall be relieved of the obligation to provide a direct purchaser of a toxic substance with a material safety data sheet:

(a) If she or he has a record that she or he has provided the direct purchaser with the most recent version of the material safety data sheet;

Section 136. Subsections (2) and (4) of section 442.107, Florida Statutes, are amended to read:

442.107 Employer to make effort to obtain unsupplied material safety data sheet.—

(2) If, after having used diligent efforts, an employer has failed to obtain the material safety data sheet, she or he shall request the secretary to obtain it on her or his behalf.

(4) For the purposes of this section, the term “diligent efforts” means a prompt inquiry by the employer to the manufacturer, importer, or distributor of the toxic substance; except that an independent contractor or subcontractor is responsible for obtaining the material safety data sheet for her or his employees in the workplace of another and except that, for an independent contractor, subcontractor, the state, or any political subdivision of the state acting as an employer, the term “diligent efforts” means a prompt inquiry to the manufacturer, importer, or distributor or to the owner of a workplace when applicable.

Section 137. Paragraph (b) of subsection (1) and subsection (3) of section 442.116, Florida Statutes, are amended to read:

442.116 Employee rights.—

(1) No person shall discharge or cause to be discharged, or otherwise discipline, or in any manner discriminate against any employee for any of the following reasons:

(b) The employee has testified or is about to testify in any proceeding in her or his own behalf or on behalf of others; or

(3) A violation of this section by an employer shall create in her or his employee a private cause of action cognizable in the circuit court. An employee who believes that she or he has been discharged, disciplined, or in any manner discriminated against by her or his employer for reasons of exercising rights under this act may, within 120 days of such violation or within 120 days after obtaining knowledge that a violation did occur, file a cause of action. The court shall award to the prevailing party a reasonable attorney's fee and costs arising from a suit filed pursuant to this section.

Section 138. Section 442.119, Florida Statutes, is amended to read:

442.119 Liability and responsibility of independent contractor, general contractor, and subcontractor.—

(1) For purposes of compliance with this act, an independent contractor or subcontractor shall be responsible for her or his employees in the workplace of another employer.

(2) In case a general contractor sublets any part or parts of her or his contract work to a subcontractor or subcontractors, all of the employees of such general contractor and subcontractor or subcontractors engaged on such contract work shall be deemed to be employed in one and the same business or establishment, and the general contractor shall be responsible for satisfying the provisions of ss. 442.106, 442.107, 442.108, 442.109, 442.115, 442.116, and 442.118, except with respect to employees of a subcontractor who has complied with such provisions.

(3) In those instances in which the general contractor carries out the provisions of ss. 442.106, 442.107, 442.108, 442.109, 442.115, 442.116, and 442.118 with respect to the employees of a subcontractor, her or his liability to such employees shall be limited solely to the provisions of this act and shall in no way absolve the liabilities imposed upon the subcontractor with respect to such employees by any other statute or common law.

Section 139. Section 443.021, Florida Statutes, is amended to read:

443.021 Declaration of public policy.—As a guide to the interpretation and application of this chapter, the public policy of this state is declared to be as follows: Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state. Unemployment is therefore a subject of general interest and concern which requires appropriate action by the Legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and her or his family. The achievement of social security requires protection against this greatest hazard of our economic life. This objective can be furthered by operating free public employment offices in affiliation

with a nationwide system of employment services, by devising appropriate methods for reducing the volume of unemployment and by the systematic accumulation of funds during the periods of employment from which benefits may be paid for periods of unemployment thus maintaining purchasing power and limiting the serious social consequences of unemployment. The Legislature, therefore, declares that in its considered judgment the public good, and the general welfare of the citizens of this state require the enactment of this measure, under the police power of the state, for the establishment and maintenance of free public employment offices and for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own, subject, however, to the specific provisions of this chapter.

Section 140. Subsection (1) of section 443.041, Florida Statutes, is amended to read:

443.041 Waiver of rights; fees; privileged communications.—

(1) **WAIVER OF RIGHTS VOID.**—Any agreement by an individual to waive, release, or commute her or his rights to benefits or any other rights under this chapter shall be void. Any agreement by an individual in the employ of any person or concern to pay all or any portion of any employer's contributions, required under this chapter from such employer, shall be void. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from her or him, or require or accept any waiver of any right hereunder by any individual in her or his employ. Any employer or officer or agent of an employer who violates any provision of this subsection shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 141. Paragraph (a) of subsection (3) of section 443.051, Florida Statutes, is amended to read:

443.051 Benefits not alienable; exception, child support intercept.—

(3) **EXCEPTION, CHILD SUPPORT INTERCEPT.**—

(a) The division shall require each individual filing a new claim for unemployment compensation to disclose at the time of filing such claim whether or not she or he owes child support obligations which are being enforced by a state or local child support enforcement agency. If any applicant discloses that she or he owes child support obligations and she or he is determined to be eligible for unemployment compensation benefits, the division shall notify the state or local child support enforcement agency enforcing such obligation.

Section 142. Subsection (1) and paragraph (a) of subsection (5) of section 443.071, Florida Statutes, are amended to read:

443.071 Penalties.—

(1) Whoever makes a false statement or representation, knowing it to be false, or knowingly fails to disclose a material fact to obtain or increase any

benefits or other payment under this chapter or under an employment security law of any other state, of the Federal Government, or of a foreign government, either for herself or himself or for any other person, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

(5) In any prosecution or action under the provisions of this section, the signature of a person on a document, letter, or other writing shall constitute prima facie evidence of such person's identity if the following conditions exist:

(a) The person gives her or his name, residence address, home telephone number, present or former place of employment, sex, date of birth, social security number, height, weight, and race.

Section 143. Subsection (2) of section 443.191, Florida Statutes, is amended to read:

443.191 Unemployment Compensation Trust Fund; establishment and control.—

(2) The Treasurer shall be the ex officio treasurer and custodian of the fund and shall administer such fund in accordance with the directions of the division. All payments from the fund shall be approved by the division or by a duly authorized agent and shall be made by the Treasurer upon warrants issued by the Comptroller, except as hereinafter provided. The Treasurer shall maintain within the fund three separate accounts:

- (a) A clearing account;
- (b) An Unemployment Compensation Trust Fund account; and
- (c) A benefit account.

All moneys payable to the fund, including moneys received from the United States as reimbursement for extended benefits paid by the division, upon receipt thereof by the division, shall be forwarded to the Treasurer, who shall immediately deposit them in the clearing account. Refunds payable pursuant to s. 443.141 may be paid from the clearing account upon warrants issued by the Comptroller as above set forth. After clearance thereof, all other moneys in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States to the credit of the account of this state in the Unemployment Compensation Trust Fund established and maintained pursuant to s. 904 of the Social Security Act, as amended, any provisions of the law in this state relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned from this state's account in the Unemployment Compensation Trust Fund. Except as herein otherwise provided, moneys in the clearing and benefit accounts may be deposited by the Treasurer, under the direction of the division, in any bank or public depository in which general funds of the state may be deposited, but no public

deposit insurance charge or premium shall be paid out of the fund. If any warrant issued against the clearing account or the benefit account is not presented for payment within 1 year after issuance thereof, the Comptroller shall cancel the same and credit without restriction the amount of such warrant to the account upon which it is drawn. When the payee or person entitled to any warrant so canceled requests payment thereof, the Comptroller, upon direction of the division, shall issue a new warrant therefor, to be paid out of the account against which the canceled warrant had been drawn. The Treasurer shall be liable on her or his official bond for the faithful performance of her or his duties as custodian of the fund.

Section 144. Subsections (1) and (2) of section 443.211, Florida Statutes, are amended to read:

443.211 Employment Security Administration Trust Fund; appropriation; reimbursement.—

(1) EMPLOYMENT SECURITY ADMINISTRATION TRUST FUND.— There is created in the State Treasury a special fund to be known as the “Employment Security Administration Trust Fund.” All moneys which are deposited or paid into this fund shall be continuously available to the division for expenditure in accordance with the provisions of this chapter and shall not lapse at any time or be transferred to any other fund. All moneys in this fund which are received from the Federal Government or any agency thereof or which are appropriated by this state for the purposes described in ss. 443.171 and 443.181, except money received pursuant to s. 443.191(5)(c), shall be expended solely for the purposes and in the amounts found necessary by the authorized cooperating federal agencies for the proper and efficient administration of this chapter. The fund shall consist of all moneys appropriated by this state; all moneys received from the United States or any agency thereof; all moneys received from any other source for such purpose; any moneys received from any agency of the United States or any other state as compensation for services or facilities supplied to such agency; any amounts received pursuant to any surety bond or insurance policy or from other sources for losses sustained by the Employment Security Administration Trust Fund or by reason of damage to equipment or supplies purchased from moneys in such fund; and any proceeds realized from the sale or disposition of any such equipment or supplies which may no longer be necessary for the proper administration of this chapter. Notwithstanding any provision of this section, all money requisitioned and deposited in this fund pursuant to s. 443.191(5)(c) shall remain part of the Unemployment Compensation Trust Fund and shall be used only in accordance with the conditions specified in s. 443.191(5). All moneys in this fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury. Such moneys shall be secured by the depository in which they are held to the same extent and in the same manner as required by the general depository law of the state, and collateral pledged shall be maintained in a separate custody account. All payments from the Employment Security Administration Trust Fund shall be approved by the division or by a duly authorized agent and shall be made by the Treasurer upon warrants issued by the Comptroller. Any balances in

this fund shall not lapse at any time but shall be continuously available to the division for expenditure consistent with this chapter. The Treasurer shall be liable on her or his official bond for the faithful performance of her or his duties in connection with the Employment Security Administration Trust Fund provided for under this chapter. Such liability on the official bond shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to any liability upon any separate bond existent on the effective date of this provision, or which may be given in the future. All sums recovered on any surety bond for losses sustained by the Employment Security Administration Trust Fund shall be deposited in that fund.

(2) SPECIAL EMPLOYMENT SECURITY ADMINISTRATION TRUST FUND.—There is created in the State Treasury a special fund, to be known as the “Special Employment Security Administration Trust Fund,” into which shall be deposited or transferred all interest on contributions, penalties, and fines or fees collected under this chapter. Interest on contributions, penalties, and fines or fees deposited during any calendar quarter in the clearing account in the Unemployment Compensation Trust Fund shall, as soon as practicable after the close of such calendar quarter and upon certification of the division, be transferred to the Special Employment Security Administration Trust Fund. However, there shall be withheld from any such transfer the amount certified by the division to be required under this chapter to pay refunds of interest on contributions, penalties, and fines or fees collected and erroneously deposited into the clearing account in the Unemployment Compensation Trust Fund. Such amounts of interest and penalties so certified for transfer shall be deemed to have been erroneously deposited in the clearing account, and the transfer thereof to the Special Employment Security Administration Trust Fund shall be deemed to be a refund of such erroneous deposits. All moneys in this fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as are provided by law for other special funds in the State Treasury. These moneys shall not be expended or be available for expenditure in any manner which would permit their substitution for, or permit a corresponding reduction in, federal funds which would, in the absence of these moneys, be available to finance expenditures for the administration of the Unemployment Compensation Law. But nothing in this section shall prevent these moneys from being used as a revolving fund to cover expenditures, necessary and proper under the law, for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The moneys in this fund, with the approval of the Executive Office of the Governor, shall be used by the Division of Unemployment Compensation and the Division of Jobs and Benefits for the payment of costs of administration which are found not to have been properly and validly chargeable against funds obtained from federal sources. All moneys in the Special Employment Security Administration Trust Fund shall be continuously available to the division for expenditure in accordance with the provisions of this chapter and shall not lapse at any time. All payments from the Special Employment Security Administration Trust Fund shall be approved by the division or by a duly authorized agent thereof and shall be made by the Treasurer upon warrants issued by the Comptroller. The moneys in this fund are hereby specifically

made available to replace, as contemplated by subsection (3), expenditures from the Employment Security Administration Trust Fund, established by subsection (1), which have been found by the Bureau of Employment Security, or other authorized federal agency or authority, because of any action or contingency, to have been lost or improperly expended. The Treasurer shall be liable on her or his official bond for the faithful performance of her or his duties in connection with the Special Employment Security Administration Trust Fund.

Section 145. Paragraphs (b) and (c) of subsection (2) of section 446.045, Florida Statutes, are amended to read:

446.045 State Apprenticeship Council.—

(2)

(b) The division director or the division director's ~~his~~ designee shall be ex officio chair ~~chairman~~ of the State Apprenticeship Council, but ~~he~~ may not vote. The administrator of industrial education of the Department of Education and the state director of the Bureau of Apprenticeship and Training of the United States Department of Labor shall be appointed nonvoting members of the council. The Governor shall appoint two three-member committees for the purpose of nominating candidates for appointment to the council. One nominating committee shall be composed of joint employee organization representatives, and the other nominating committee shall be composed of nonjoint employer organization representatives. The joint employee organization nominating committee shall submit to the Governor the names of three persons for each vacancy occurring among the joint employee organization members on the council, and the nonjoint employer organization nominating committee likewise shall submit to the Governor the names of three persons for each vacancy occurring among the nonjoint employer organization members on the council. The Governor shall appoint to the council five members representing joint employee organizations and five members representing nonjoint employer organizations from the candidates nominated for each position by the respective nominating committees. Each member shall represent industries which have registered apprenticeship programs or in which a need for apprenticeship programs has been demonstrated. Initially, the Governor shall appoint four members for terms of 4 years, two members for terms of 3 years, two members for terms of 2 years, and two members for terms of 1 year. Thereafter, members shall be appointed for 4-year terms. A vacancy shall be filled for the remainder of the unexpired term.

(c) The council shall meet at the call of the chair ~~chairman~~ or at the request of a majority of its membership, but at least twice a year. A majority of the voting members shall constitute a quorum, and the affirmative vote of a majority of a quorum is necessary to take action.

Section 146. Subsection (2) of section 446.081, Florida Statutes, is amended to read:

446.081 Limitation.—

(2) No person shall institute any action for the enforcement of any apprentice agreement, or for damages for the breach of any apprentice agreement, made under ss. 446.011-446.092, unless he or she has first exhausted all administrative remedies provided by this section.

Section 147. Subsection (1) of section 447.01, Florida Statutes, is amended to read:

447.01 Regulating labor unions; state policy.—

(1) Because of the activities of labor unions affecting the economic conditions of the country and the state, entering as they do into practically every business and industrial enterprise, it is the sense of the Legislature that such organizations affect the public interest and are charged with a public use. The working person ~~man~~, unionist or nonunionist, must be protected. The right to work is the right to live.

Section 148. Paragraph (a) of subsection (1) and paragraph (a) of subsection (2) of section 447.04, Florida Statutes, are amended to read:

447.04 Business agents; licenses, permits.—

(1) No person shall be granted a license or a permit to act as a business agent in the state:

(a) Who has been convicted of a felony and has not had his or her civil rights restored.

(2)(a) Every person desiring to act as a business agent in this state shall, before doing so, obtain a license or permit by filing an application under oath therefor with the Division of Jobs and Benefits of the Department of Labor and Employment Security, accompanied by a fee of \$25 and a full set of fingerprints of the applicant taken by a law enforcement agency qualified to take fingerprints. There shall accompany the application a statement signed by the president and the secretary of the labor organization for which he or she proposes to act as agent, showing his or her authority to do so. The division shall hold such application on file for a period of 30 days, during which time any person may file objections to the issuing of such license or permit.

Section 149. Section 447.08, Florida Statutes, is amended to read:

447.08 Rights of members in armed forces.—Any employee who is a member of any labor organization who, because of services with the Armed Forces of the United States, during time of war or national emergency, has been unable to pay any dues, assessments or sums levied by any labor organization, shall not hereafter be required to make such back payments as a condition to reinstatement in good standing as a member of any labor organization to which he or she belonged.

Section 150. Subsections (1), (3), and (11) of section 447.09, Florida Statutes, are amended to read:

447.09 Right of franchise preserved; penalties.—It shall be unlawful for any person:

(1) To interfere with or prevent the right of franchise of any member of a labor organization. The right of franchise shall include the right of an employee to make complaint, file charges, give information or testimony concerning the violations of this chapter, or the petitioning to ~~the~~ his union regarding any grievance he or she may have concerning ~~his~~ membership or employment, or the making known facts concerning such grievance or violations of law to any public officials, and ~~the~~ his right of free petition, lawful assemblage and free speech.

(3) To participate in any strike, walkout, or cessation of work or continuation thereof without the same being authorized by a majority vote of the employees to be governed thereby; provided, that this shall not prohibit any person from terminating his or her employment of his or her own volition.

(11) To coerce or intimidate any employee in the enjoyment of ~~his~~ legal rights, including those guaranteed in s. 447.03; to coerce or intimidate any elected or appointed public official; or to intimidate the family, picket the domicile, or injure the person or property of such employee or public official, or his or her family.

Section 151. Subsection (1) of section 447.17, Florida Statutes, is amended to read:

447.17 Civil remedy; injunctive relief.—

(1) Any person who may be denied employment or discriminated against in his or her employment on account of membership or nonmembership in any labor union or labor organization shall be entitled to recover from the discriminating employer, other person, firm, corporation, labor union, labor organization, or association, acting separately or in concert, in the courts of this state, such damages as he or she may have sustained and the costs of suit, including reasonable attorney's fees. If such employer, other person, firm, corporation, labor union, labor organization, or association acted willfully and with malice or reckless indifference to the rights of others, punitive damages may be assessed against such employer, other person, firm, corporation, labor union, labor organization, or association.

Section 152. Paragraph (b) of subsection (13) and subsection (18) of section 447.203, Florida Statutes, are amended to read:

447.203 Definitions.—As used in this part:

(13) "Professional employee" means:

(b) Any employee who:

1. Has completed the course of specialized intellectual instruction and study described in subparagraph 4. of paragraph (a); and

2. Is performing related work under supervision of a professional person to qualify ~~himself~~ to become a professional employee as defined in paragraph (a).

(18) "Student representative" means the representative selected by each community college student government association and the council of student body presidents. Each representative may be present at all negotiating sessions which take place between the appropriate public employer and an exclusive bargaining agent. Said representative shall be enrolled as a student with at least 8 credit hours in the respective community college or in the State University System during his or her term as student representative.

Section 153. Subsection (2) and paragraph (d) of subsection (3) of section 447.208, Florida Statutes, are amended to read:

447.208 Procedure with respect to certain appeals under s. 447.207.—

(2) This section does not prohibit any person from representing himself or herself in proceedings before the commission or from being represented by legal counsel or by any individual who qualifies as a representative pursuant to rules promulgated and adopted by the commission.

(3) With respect to hearings relating to demotions, suspensions, or dismissals pursuant to the provisions of this section:

(d) The commission is limited in its discretionary reduction of dismissals and suspensions to consider only the following circumstances:

1. The seriousness of the conduct as it relates to the employee's duties and responsibilities.
2. Action taken with respect to similar conduct by other employees.
3. The previous employment record and disciplinary record of the employee.
4. Extraordinary circumstances beyond the employee's control which temporarily diminished the employee's capacity to effectively perform his or her duties or which substantially contributed to the violation for which punishment is being considered.

The agency may present evidence to refute the existence of these circumstances.

Section 154. Subsections (4) and (5) of section 447.301, Florida Statutes, are amended to read:

447.301 Public employees' rights; organization and representation.—

(4) Nothing in this part shall be construed to prevent any public employee from presenting, at any time, his or her own grievances, in person or by legal counsel, to his or her public employer and having such grievances adjusted without the intervention of the bargaining agent, if the adjustment is not inconsistent with the terms of the collective bargaining agreement then in effect and if the bargaining agent has been given reasonable opportunity to be present at any meeting called for the resolution of such grievances.

(5) In negotiations over the terms and conditions of service and other matters affecting the working environment of employees, or the learning environment of students, in institutions of higher education, one student representative selected by the council of student body presidents may, at his or her discretion, be present at all negotiating sessions which take place between the Board of Regents and the bargaining agent for an employee bargaining unit. In the case of community colleges, the student government association of each college shall establish procedures for the selection of, and shall select, a student representative to be present, at his or her discretion, at negotiations between the bargaining agent of the employees and the board of trustees. Each student representative shall have access to all written draft agreements and all other written documents pertaining to negotiations exchanged by the appropriate public employer and the bargaining agent, including a copy of any prepared written transcripts of any negotiating session. Each student representative shall have the right at reasonable times during the negotiating session to comment to the parties and to the public upon the impact of proposed agreements on the educational environment of students. Each student representative shall have the right to be accompanied by alternates or aides, not to exceed a combined total of two in number. Each student representative shall be obligated to participate in good faith during all negotiations and shall be subject to the rules and regulations of the Public Employees Relations Commission. The student representatives shall have neither voting nor veto power in any negotiation, action, or agreement. The state or any branch, agency, division, agent, or institution of the state shall not expend any moneys from any source for the payment of reimbursement for travel expenses or per diem to aides, alternates, or student representatives participating in, observing, or contributing to any negotiating sessions between the bargaining parties; however, this limitation does not apply to the use of student activity fees for the reimbursement of travel expenses and per diem to the university student representative, aides, or alternates participating in the aforementioned negotiations between the Board of Regents and the bargaining agent for an employee bargaining unit.

Section 155. Subsection (1) and paragraph (a) of subsection (2) of section 447.309, Florida Statutes, are amended to read:

447.309 Collective bargaining; approval or rejection.—

(1) After an employee organization has been certified pursuant to the provisions of this part, the bargaining agent for the organization and the chief executive officer of the appropriate public employer or employers, jointly, shall bargain collectively in the determination of the wages, hours, and terms and conditions of employment of the public employees within the bargaining unit. The chief executive officer or his or her representative and the bargaining agent or its representative shall meet at reasonable times and bargain in good faith. In conducting negotiations with the bargaining agent, the chief executive officer or his or her representative shall consult with, and attempt to represent the views of, the legislative body of the public employer. Any collective bargaining agreement reached by the negotiators shall be reduced to writing, and such agreement shall be signed by the chief executive officer and the bargaining agent. Any agreement signed by the

chief executive officer and the bargaining agent shall not be binding on the public employer until such agreement has been ratified by the public employer and by public employees who are members of the bargaining unit, subject to the provisions of subsections (2) and (3). However, with respect to statewide bargaining units, any agreement signed by the Governor and the bargaining agent for such a unit shall not be binding until approved by the public employees who are members of the bargaining unit, subject to the provisions of subsections (2) and (3).

(2)(a) Upon execution of the collective bargaining agreement, the chief executive shall, in his or her annual budget request or by other appropriate means, request the legislative body to appropriate such amounts as shall be sufficient to fund the provisions of the collective bargaining agreement.

Section 156. Section 447.401, Florida Statutes, is amended to read:

447.401 Grievance procedures.—Each public employer and bargaining agent shall negotiate a grievance procedure to be used for the settlement of disputes between employer and employee, or group of employees, involving the interpretation or application of a collective bargaining agreement. Such grievance procedure shall have as its terminal step a final and binding disposition by an impartial neutral, mutually selected by the parties; however, when the issue under appeal is an allegation of abuse or neglect by an employee under s. 415.1075 or s. 415.504, the grievance may not be decided until the confirmed report of abuse or neglect has been upheld pursuant to the procedures for appeal in ss. 415.1075 and 415.504. However, an arbitrator or other neutral shall not have the power to add to, subtract from, modify, or alter the terms of a collective bargaining agreement. If an employee organization is certified as the bargaining agent of a unit, the grievance procedure then in existence may be the subject of collective bargaining, and any agreement which is reached shall supersede the previously existing procedure. All public employees shall have the right to a fair and equitable grievance procedure administered without regard to membership or non-membership in any organization, except that certified employee organizations shall not be required to process grievances for employees who are not members of the organization. A career service employee shall have the option of utilizing the civil service appeal procedure, an unfair labor practice procedure, or a grievance procedure established under this section, but such employee is precluded from availing himself or herself to more than one of these procedures.

Section 157. Subsection (3) and paragraph (a) of subsection (4) of section 447.403, Florida Statutes, are amended to read:

447.403 Resolution of impasses.—

(3) The special master shall hold hearings in order to define the area or areas of dispute, to determine facts relating to the dispute, and to render a decision on any and all unresolved contract issues. The hearings shall be held at times, dates, and places to be established by the special master in accordance with rules promulgated by the commission. The special master shall be empowered to administer oaths and issue subpoenas on behalf of the parties to the dispute or on his or her own behalf. Within 15 calendar

days after the close of the final hearing, the special master shall transmit his or her recommended decision to the commission and to the representatives of both parties by registered mail, return receipt requested. Such recommended decision shall be discussed by the parties, and each recommendation of the special master shall be deemed approved by both parties unless specifically rejected by either party by written notice filed with the commission within 20 calendar days after the date the party received the special master's recommended decision. The written notice shall include a statement of the cause for each rejection and shall be served upon the other party.

(4) In the event that either the public employer or the employee organization does not accept, in whole or in part, the recommended decision of the special master:

(a) The chief executive officer of the governmental entity involved shall, within 10 days after rejection of a recommendation of the special master, submit to the legislative body of the governmental entity involved a copy of the findings of fact and recommended decision of the special master, together with the chief executive officer's recommendations for settling the disputed impasse issues. The chief executive officer shall also transmit his or her recommendations to the employee organization. If the dispute involves employees for whom the Board of Regents is the public employer, the Governor may also submit recommendations to the legislative body for settling the disputed impasse issues;

Section 158. Section 447.405, Florida Statutes, is amended to read:

447.405 Factors to be considered by the special master.—The special master shall conduct the hearings and render his recommended decisions with the objective of achieving a prompt, peaceful, and just settlement of disputes between the public employee organizations and the public employers. The factors, among others, to be given weight by the special master in arriving at a recommended decision shall include:

(1) Comparison of the annual income of employment of the public employees in question with the annual income of employment maintained for the same or similar work of employees exhibiting like or similar skills under the same or similar working conditions in the local operating area involved.

(2) Comparison of the annual income of employment of the public employees in question with the annual income of employment of public employees in similar public employee governmental bodies of comparable size within the state.

(3) The interest and welfare of the public.

(4) Comparison of peculiarities of employment in regard to other trades or professions, specifically with respect to:

(a) Hazards of employment.

(b) Physical qualifications.

- (c) Educational qualifications.
- (d) Intellectual qualifications.
- (e) Job training and skills.
- (f) Retirement plans.
- (g) Sick leave.
- (h) Job security.
- (5) Availability of funds.

Section 159. Section 447.4095, Florida Statutes, is amended to read:

447.4095 Financial urgency.—In the event of a financial urgency requiring modification of an agreement, the chief executive officer or his or her representative and the bargaining agent or its representative shall meet as soon as possible to negotiate the impact of the financial urgency. If after a reasonable period of negotiation which shall not exceed 14 days, a dispute exists between the public employer and the bargaining agent, an impasse shall be deemed to have occurred, and one of the parties shall so declare in writing to the other party and to the commission. The parties shall then proceed pursuant to the provisions of s. 447.403. An unfair labor practice charge shall not be filed during the 14 days during which negotiations are occurring pursuant to this section.

Section 160. Paragraph (d) of subsection (1) and paragraph (d) of subsection (2) of section 447.501, Florida Statutes, are amended to read:

447.501 Unfair labor practices.—

(1) Public employers or their agents or representatives are prohibited from:

(d) Discharging or discriminating against a public employee because he or she has filed charges or given testimony under this part.

(2) A public employee organization or anyone acting in its behalf or its officers, representatives, agents, or members are prohibited from:

(d) Discriminating against an employee because he or she has signed or filed an affidavit, petition, or complaint or given any information or testimony in any proceedings provided for in this part.

Section 161. Subsection (5) and paragraph (a) of subsection (6) of section 447.507, Florida Statutes, are amended to read:

447.507 Violation of strike prohibition; penalties.—

(5) If the commission, after a hearing on notice conducted according to rules promulgated by the commission, determines that an employee has violated s. 447.505, it may order the termination of his or her employment

by the public employer. Notwithstanding any other provision of law, a person knowingly violating the provision of said section may, subsequent to such violation, be appointed, reappointed, employed, or reemployed as a public employee, but only upon the following conditions:

(a) Such person shall be on probation for a period of 6 months following his or her appointment, reappointment, employment, or reemployment, during which period he or she shall serve without tenure. During this period, the person may be discharged only upon a showing of just cause.

(b) His or her compensation may in no event exceed that received ~~by him~~ immediately prior to the time of the violation.

(c) The compensation of the person may not be increased until after the expiration of 1 year from such appointment, reappointment, employment, or reemployment.

(6)(a) If the commission determines that an employee organization has violated s. 447.505, it may:

1. Issue cease and desist orders as necessary to ensure compliance with its order.

2. Suspend or revoke the certification of the employee organization as the bargaining agent of such employee unit.

3. Revoke the right of dues deduction and collection previously granted to said employee organization pursuant to s. 447.303.

4. Fine the organization up to \$20,000 for each calendar day of such violation or determine the approximate cost to the public due to each calendar day of the strike and fine the organization an amount equal to such cost, notwithstanding the fact that the fine may exceed \$20,000 for each such calendar day. The fines so collected shall immediately accrue to the public employer and shall be used by him or her to replace those services denied the public as a result of the strike. In determining the amount of damages, if any, to be awarded to the public employer, the commission shall take into consideration any action or inaction by the public employer or its agents that provoked, or tended to provoke, the strike by the public employees.

Section 162. Subsection (3) of section 447.509, Florida Statutes, is amended to read:

447.509 Other unlawful acts.—

(3) The circuit courts of this state shall have jurisdiction to enforce the provisions of this section by injunction and contempt proceedings, if necessary. A public employee who is convicted of a violation of any provision of this section may be discharged or otherwise disciplined by his or her public employer, notwithstanding further provisions of law, and notwithstanding the provisions of any collective bargaining agreement.

Section 163. Section 447.609, Florida Statutes, is amended to read:

447.609 Representation in proceedings.—Any full-time employee or officer of any public employer or employee organization may represent his or her employer or any member of a bargaining unit in any proceeding authorized in this part, excluding the representation of any person or public employer in a court of law by a person who is not a licensed attorney.

Section 164. Section 448.01, Florida Statutes, is amended to read:

448.01 Ten hours of labor a legal day's work; extra pay.—

(1) Ten hours of labor shall be a legal day's work, and when any person employed to perform manual labor of any kind by the day, week, month or year renders 10 hours of labor, he or she shall be considered to have performed a legal day's work, unless a written contract has been signed by the person so employed and the employer, requiring a less or greater number of hours of labor to be performed daily.

(2) Unless such written contract has been made, the person employed shall be entitled to extra pay for all work performed by the requirement of his or her employer in excess of 10 hours' labor daily.

Section 165. Section 448.045, Florida Statutes, is amended to read:

448.045 Wrongful combinations against workers.—If two or more persons shall agree, conspire, combine or confederate together for the purpose of preventing any person from procuring work in any firm or corporation, or to cause the discharge of any person from work in such firm or corporation; or if any person shall verbally or by written or printed communication, threaten any injury to life, property or business of any person for the purpose of procuring the discharge of any worker ~~workman~~ in any firm or corporation, or to prevent any person from procuring work in such firm or corporation, such persons so combining shall be deemed guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 166. Section 448.05, Florida Statutes, is amended to read:

448.05 Seats to be furnished for employees in stores; penalty.—If any merchant, storekeeper, employer of male or female clerks, ~~salespeople~~ salesmen, cash boys or cash girls, or other assistants, in mercantile or other business pursuits, requiring such employees to stand or walk during their active duties, neglect to furnish at his or her own cost or expense suitable chairs, stools or sliding seats attached to the counters or walls, for the use of such employees when not engaged in their active work, and not required to be on their feet in the proper performance of their several duties; or refuse to permit their said employees to make reasonable use of said seats during business hours, for purposes of necessary rest, and when such use will not interfere with humane or reasonable requirements of their employment, he or she shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 167. Paragraph (c) of subsection (1), paragraph (a) of subsection (2), and subsection (3) of section 448.07, Florida Statutes, are amended to read:

448.07 Wage rate discrimination based on sex prohibited.—

(1) DEFINITIONS.—As used in this section, unless the context or subject matter clearly requires otherwise, the following terms shall have the meanings as defined in this section:

(c) “Wages” means and includes all compensation paid by an employer or his or her agent for the performance of service by an employee, including the cash value of all compensation paid in any medium other than cash.

(2) DISCRIMINATION ON BASIS OF SEX PROHIBITED.—

(a) No employer shall discriminate between employees on the basis of sex by paying wages to employees at a rate less than the rate at which he or she pays wages to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except when such payment is made pursuant to:

1. A seniority system;
2. A merit system;
3. A system which measures earnings by quantity or quality of production; or
4. A differential based on any reasonable factor other than sex when exercised in good faith.

(3) CIVIL ACTION FOR UNPAID WAGES.—Any employer or person who violates the provisions of this section is liable to the employee for the amount of the difference between the amount the employee was paid and the amount he or she should have been paid under this section. Nothing in this section allows a claimant to recover more than an amount equal to his or her unpaid wages while so employed for 1 year prior to the filing of the his claim. An action to recover such liability may be maintained in any court of competent jurisdiction by the aggrieved employee within 6 months after termination of employment. The court in such action may award to the prevailing party costs of the action and a reasonable attorney’s fee.

Section 168. Subsection (1) of section 448.09, Florida Statutes, is amended to read:

448.09 Unauthorized aliens; employment prohibited.—

(1) It shall be unlawful for any person knowingly to employ, hire, recruit, or refer, either for herself or himself or on behalf of another, for private or public employment within the state, an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States.

Section 169. Paragraph (c) of subsection (1) of section 448.103, Florida Statutes, is amended to read:

448.103 Employee’s remedy; relief.—

(1)

(c) An employee may not recover in any action brought pursuant to this subsection if he or she failed to notify the employer about the illegal activity, policy, or practice as required by s. 448.102(1) or if the retaliatory personnel action was predicated upon a ground other than the employee's exercise of a right protected by this act.

Section 170. Paragraphs (b) and (c) of subsection (5) and subsection (6) of section 450.081, Florida Statutes, are amended to read:

450.081 Hours of work in certain occupations.—

(5) The provisions of subsections (1) through (4) shall not apply to:

(b) Minors who are within the compulsory school attendance age limit who hold a valid certificate of exemption issued by the school superintendent or his or her designee pursuant to the provisions of s. 232.06.

(c) Minors enrolled in a public educational institution who qualify on a hardship basis such as economic necessity or family emergency. Such determination shall be made by the school superintendent or his or her designee, and a waiver of hours shall be issued to the minor and the employer. The form and contents thereof shall be prescribed by the division.

(6) The presence of any minor in any place of employment during working hours shall be prima facie evidence of his or her employment therein.

Section 171. Subsection (1) of section 450.141, Florida Statutes, is amended to read:

450.141 Employing minor children in violation of law; penalties.—

(1) Whoever violates any provisions of this law, or employs or permits or suffers any minor to be employed or to work in violation of this law, or of any order issued under the provisions of this law, or obstructs persons authorized under this law in the inspection of places of employment, and whoever, having under his or her control any minor, permits the minor ~~him~~ to be employed or to work in violation of this law, shall for such offense be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Each day during which any violation of this law continues shall constitute a separate and distinct offense, and the employment of any minor in violation of the law shall, with respect to each minor so employed, constitute a separate and distinct offense.

Section 172. Section 450.151, Florida Statutes, is amended to read:

450.151 Hiring and employing; infliction of pain or suffering; penalty.— Any person who takes, receives, hires, employs, uses, exhibits, or, in any manner or under any pretense, causes or permits any child less than 18 years of age to suffer; who inflicts upon any such child unjustifiable physical pain or mental suffering; who willfully causes or permits the life of any such child to be endangered or his or her health to be injured or such child to be placed in such situation that his or her life may be endangered or his health

injured; or who has in custody any such child for any of the purposes aforesaid is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 173. Section 450.251, Florida Statutes, is amended to read:

450.251 Interstate Compact on Migrant Labor.—The Governor on behalf of this state is hereby authorized to execute a compact, in substantially the following form, with any one or more of the states of the United States, and the Legislature hereby signifies in advance its approval and ratification of such compact:

INTERSTATE MIGRANT LABOR COMPACT

MEMBER JURISDICTION.—The compact for migrant labor is entered into with all jurisdictions legally joining therein and enacted into law in the following form:

INTERSTATE MIGRANT LABOR COMPACT

ARTICLE I

PURPOSE AND POLICY.—

A. It is the purpose of this compact to:

1. Establish and maintain close cooperation and understanding of migrant labor programs among executive, legislative, and local government bodies and lay leadership on a nationwide basis at the state and local levels.

2. Provide a forum for the discussion, development, crystallization, and recommendation of public policy alternatives in a continuing effort to meet the problems arising from the interstate flow of migrant labor.

3. Provide a clearinghouse of information on matters relating to migrant labor problems and how they are being met in different places throughout the nation, so that the executive and legislative branches of state government and of local communities may have ready access to the experience and record of the entire country, and so that both governmental and lay groups in the field may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy for migrant labor.

4. Facilitate the improvement of state and local programs, so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advancement, and provides means whereby the party states can coordinate programs, devise agreements for consistent application of programs, and increase the effectiveness of programs.

B. It is the policy of this compact to encourage and promote local and state initiative in the development, maintenance, improvement, and administration of migrant labor programs in a manner which will accord with the needs and advantages of diversity among localities and states.

C. Further, it is the policy of this compact that the party states recognize that each of them has an interest in the quality of the programs offered in each of the other states, as well as in the excellence of its own programs,

because of the highly mobile character of the migrant labor force as a group, and because the products and services contributing to the health, welfare, and economic advancement of each state are supplied in part by persons working in this group.

ARTICLE II

STATE DEFINED.—

As used in this compact, “state” means a state, territory, or possession of the United States, District of Columbia, or the Commonwealth of Puerto Rico.

ARTICLE III

THE COMMISSION.—

A. The interstate migrant labor commission, hereinafter called “the commission,” is hereby established. The commission shall consist of five members representing each party state. One of such members representing each state shall be the governor or his or her representative; one shall be a member of the upper house of the state legislature, appointed by the presiding officer thereof; one shall be a member of the lower house of the state legislature, appointed by the presiding officer; and two shall be appointed by the governor, one of whom may be a local government official from an area of the state concerned with migrant labor problems. The guiding principle for the composition of the membership of the commission shall be that the members, by virtue of their training, experience, knowledge, or affiliations be in a position collectively to reflect broadly the interests of the state and local government in migrant labor affairs.

B. The members of the commission shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be taken only at a meeting at which a majority of the commissioners are present. The commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the commission may delegate the exercise of any of its powers to subcommittees appointed for specific purposes.

C. The commission shall elect annually from among its members a chair chairman, who shall be a governor or member of a party state legislature, a vice chair chairman, and treasurer.

D. The commission shall appoint an executive director who shall serve at the pleasure of the commission. The executive director together with the treasurer and other officers of the commission shall be bonded in the amount as the commission determines. The executive director shall serve as secretary.

E. The executive director shall have the authority to direct the staff to comply with those goals established by the commission in both the compact and the bylaws of the commission. The executive director and the staff may be furnished by the council of state governments, serving the goals of the commission and any related activities of the council of state governments.

In such case the commission shall reimburse the council of state governments for all reasonable charges for the services provided. The commission in its bylaws shall provide for the personnel policies and programs of the commission.

F. The commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of two or more of the party jurisdictions or their subdivisions.

G. The commission may accept for any of its purposes and functions under this compact any donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency or from any person, firm, association, foundation, or corporation, and may utilize and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to paragraph F. of this article shall be reported in the annual report of the commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant or services borrowed, and the identity of the donor or lender.

H. The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

I. The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year. The commission may make such additional reports as it may deem desirable.

ARTICLE IV

POWERS.—

In addition to authority conferred on the commission by other provisions of the compact, the commission shall have authority to:

1. Through the available facilities of party states, collect, correlate, analyze, and interpret information and data concerning migrant labor problems and resources available for solving such problems.

2. Encourage and foster research in all aspects of migrant labor, with special reference to the desirable organization, administration, and methods to be employed in meeting the needs of such labor.

3. Develop proposals for adequate financing of programs as a whole at each of many levels.

4. Conduct or participate in research of the types referred to in this article in any instance where the commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources available from party states and any other reasonably associated agencies, associations, or institutions, public or private.

5. Formulate suggested policies and plans for the improvement of migrant labor programs as a whole, or for any segment thereof, and make

recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.

6. Cooperate with commissions, agencies, and committees of other states having similar responsibilities, specifically party states of this compact.

7. Establish cooperative arrangements among party states whereby migrant labor programs shall have a continuing administration, application, and effectiveness from state to state.

8. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

ARTICLE V

COOPERATION WITH FEDERAL GOVERNMENT.—

A. If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the commission by not to exceed five representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, and may be drawn from any one or more branches of the federal government, but no such representative shall have a vote on the commission.

B. The commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common policies on migrant labor of the states, and may advise with any such agencies or officers concerning any matter of mutual interest.

ARTICLE VI

COMMITTEES.—

A. The commission may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to two or more of the party states.

B. The commission may establish such additional committees as its by-laws may provide.

ARTICLE VII

FINANCE.—

A. The commission shall advise the governor or designated officer or officers of each party state of its budget and estimate expenditures for such period as may be required by the laws of that party state. Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

B. The total amount of appropriation request under any budget shall be apportioned among the party states. In making such apportionment, the

commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party states.

C. The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it pursuant to Article III, G. of this compact, provided that the commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except when the commission makes use of funds available to it pursuant to Article III, G. hereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

D. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the commission.

E. The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

F. Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE VIII

ELIGIBLE PARTIES; ENTRY INTO AND WITHDRAWAL.—

A. This compact shall have as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a governor, the term “governor” as used in this compact shall mean the closest equivalent official of such jurisdiction.

B. Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same; provided that in order to enter into initial effect, adoption by at least five eligible party jurisdictions shall be required.

C. Adoptions of the compact may be either by enactment or by adherence thereto by the governor; provided that in the absence of enactment, adherence by the governor shall be sufficient to make his or her state a party only until the next succeeding December 31. During any period when a state is participating in this compact through gubernatorial action, the governor shall appoint those persons who, in addition to himself or herself, shall serve as the members of the commission from his or her state and shall provide to the commission an equitable share of the financial support of the commission from any source available to him or her.

D. Except for a withdrawal effective on December 31, in accordance with paragraph C. of this article, any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall

take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

ARTICLE IX

CONSTRUCTION AND SEVERABILITY.—

A. This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

COMMISSION BYLAWS.—

B. Pursuant to Paragraph I. of Article III, of this compact, the commission shall file a copy of its bylaws and any amendment thereto with the governor.

Section 174. Section 450.261, Florida Statutes, is amended to read:

450.261 Interstate Migrant Labor Commission; Florida membership.— In selecting the Florida membership of the Interstate Migrant Labor Commission, the Governor may designate the secretary of the Department of Community Affairs as his or her representative. The two legislative members shall be chosen from among the members of the Legislative Commission on Migrant Labor, and at least one of the two members appointed by the Governor shall be chosen from among the members of the advisory committee to that commission.

Section 175. Subsections (1) and (5) of section 450.30, Florida Statutes, are amended to read:

450.30 Requirement of certificate of registration; education and examination program.—

(1) No person may act as a farm labor contractor until a certificate of registration has been issued to him or her by the division and unless such certificate is in full force and effect and is in his or her possession.

(5) The division shall require each applicant to demonstrate competence by a written or oral examination in the language of the applicant, evidencing that he or she is knowledgeable concerning the duties and responsibilities of a farm labor contractor. The examination shall be prepared, administered, and evaluated by the division or through a contracted agent.

Section 176. Paragraph (b) of subsection (2) of section 450.31, Florida Statutes, is amended to read:

450.31 Issuance, revocation, and suspension of, and refusal to issue or renew, certificate of registration.—

(2) The division may revoke, suspend, or refuse to renew any certificate of registration when it is shown that the farm labor contractor has:

(b) Made any misrepresentation or false statement in his or her application for a certificate of registration.

Section 177. Subsection (1) of section 450.34, Florida Statutes, is amended to read:

450.34 Prohibited acts of farm labor contractor.—No licensee shall:

(1) Make any misrepresentation or false statement in his or her application for a certificate of registration.

Section 178. Section 450.35, Florida Statutes, is amended to read:

450.35 Certain contracts prohibited.—It is unlawful for any person to contract for the employment of farm workers with any farm labor contractor as defined in this act until the labor contractor displays to him or her a current certificate of registration issued by the division pursuant to the requirements of this part.

Section 179. Section 452.01, Florida Statutes, is amended to read:

452.01 Common carrier not to require employee to furnish surety bond of certain company.—No common carrier authorized to do business in this state, when requiring of an employee that he or she give it a bond or undertaking of any nature whatsoever, shall require such employee to have such bond or undertaking executed as a surety by any particular person, or by any one or more of any number of such persons, named by such common carrier; and no such common carrier shall reject any such bond or undertaking for any reason other than the financial insufficiency of such bond or undertaking.

Section 180. Section 452.02, Florida Statutes, is amended to read:

452.02 Foreign corporations as surety.—No common carrier authorized to do business in this state, when requiring of any employee that he or she give it a bond or undertaking of any nature whatsoever, shall require as surety thereon any person not a resident of this state; nor shall such common carrier accept as such surety any company, corporation, or association unless the same is a corporation duly organized under the laws of Florida, or who shall have designated an agent residing within this state upon whom service of legal process against it may be had as provided by law for foreign corporations doing business in this state, and shall also have in this state a general office where it shall require that every such bond or undertaking shall be approved, and canceled, and where a complete record thereof shall be kept.

Section 181. Section 452.03, Florida Statutes, is amended to read:

452.03 Bond to cover definite term; cancellation; proviso.—Every bond or undertaking of any nature whatsoever given by an employee of any common carrier authorized to do business in this state shall be made to cover a definite term; and no such bond or undertaking shall be canceled without the consent of all parties thereto, except for a breach of one or more of the conditions thereof. Any such employee who shall have given any such bond or undertaking may, upon breach of any of the conditions thereof by the other party thereto, cancel the same by giving the surety or sureties thereon and the common carrier for the benefit of whom the same shall have been made, at least 10 days' notice in writing, setting out in full the reason for canceling the same, said notice to be signed by such employee and sworn to by him or her in this state before any officer authorized to administer oaths. Any such notice to a company, corporation, or association may be served by leaving the same with any person upon whom service of legal process upon such company, corporation, or association may be had. Any surety of any such bond or undertaking may, upon the breach of any of the conditions thereof by the common carrier and employee for whom the same shall have been made, cancel the same by giving such employee at least 10 days' notice in writing, setting out in full the reason for canceling the same, the said notice to be signed by an agent or manager of such surety, then a resident of this state and then authorized to approve or disapprove similar bonds or undertakings for such surety, and to be sworn to by the person signing the same in this state before an officer authorized to administer oaths; provided, that nothing herein shall affect any right of action accruing to any person upon the breach of a contract.

Section 182. Section 454.18, Florida Statutes, is amended to read:

454.18 Officers not allowed to practice.—No sheriff or clerk of any court, or deputy thereof, shall practice in this state, nor shall any person not of good moral character, or who has been convicted of an infamous crime be entitled to practice. But no person shall be denied the right to practice on account of sex, race, or color. And any person, whether an attorney or not, or whether within the exceptions mentioned above or not, may conduct his or her own cause in any court of this state, or before any public board, committee, or officer, subject to the lawful rules and discipline of such court, board, committee, or officer. The provisions of this section restricting the practice of law by a sheriff or clerk, or deputy thereof, shall not apply in a case where such person is representing the office or agency in the course of his duties as an attorney.

Section 183. Section 454.19, Florida Statutes, is amended to read:

454.19 Certain partnerships prohibited.—No judge of a court of this state who is permitted by the constitution and laws to practice law shall form any partnership with the prosecuting attorney of such court or become a partner in any firm in which he or she is a partner. No attorney who may be a law partner with any judge of any court who is permitted by law to practice law shall be allowed to practice before the court of which his or her partner is judge.

Section 184. Section 454.23, Florida Statutes, is amended to read:

454.23 Penalties.—Any person not licensed or otherwise authorized by the Supreme Court of Florida who shall practice law or assume or hold himself or herself out to the public as qualified to practice in this state, or who willfully pretends to be, or willfully takes or uses any name, title, addition, or description implying that he or she is qualified, or recognized by law as qualified, to act as a lawyer in this state, and any person entitled to practice who shall violate any provisions of this chapter, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 185. Section 454.31, Florida Statutes, is amended to read:

454.31 Practice while disbarred or suspended prohibited.—Any person who has been disbarred and who has not been lawfully reinstated or is under suspension from the practice of law by any circuit court of the state or by the Supreme Court of the state who shall either directly or indirectly practice law in any manner or hold himself or herself out as an attorney at law or qualified to practice law shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 186. Subsection (1) of section 455.02, Florida Statutes, is amended to read:

455.02 Members of Armed Forces in good standing with administrative boards.—

(1) Any member of the Armed Forces of the United States now or hereafter on active duty who, at the time of ~~his~~ becoming such a member, was in good standing with any administrative board of the state and was entitled to practice or engage in his or her profession or vocation in the state shall be kept in good standing by such administrative board, without registering, paying dues or fees, or performing any other act on his or her part to be performed, as long as he or she is a member of the Armed Forces of the United States on active duty and for a period of 6 months after ~~his~~ discharge from active duty as a member of the Armed Forces of the United States, provided he or she is not engaged in his or her licensed profession or vocation in the private sector for profit.

Section 187. Section 455.10, Florida Statutes, is amended to read:

455.10 Restriction on requirement of citizenship.—No person shall be disqualified from practicing an occupation or profession regulated by the state solely because he or she is not a United States citizen.

Section 188. Subsection (1) of section 455.209, Florida Statutes, is amended to read:

455.209 Accountability and liability of board members.—

(1) Each board member shall be accountable to the Governor for the proper performance of duties as a member of the board. The Governor shall investigate any legally sufficient complaint or unfavorable written report received by the Governor or by the department or a board concerning the

actions of the board or its individual members. The Governor may suspend from office any board member for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform the member's his official duties, or commission of a felony.

Section 189. Subsection (2) of section 455.214, Florida Statutes, is amended to read:

455.214 Limited licenses.—

(2) Any person desiring to obtain a limited license, when permitted by rule, shall submit to the board, or the department when there is no board, an application and fee, not to exceed \$300, and an affidavit stating that the applicant has been licensed to practice in any jurisdiction in the United States for at least 10 years in the profession for which the applicant seeks a limited license. The affidavit shall also state that the applicant has retired or intends to retire from the practice of that profession and intends to practice only pursuant to the restrictions of the limited license granted pursuant to this section. If the applicant for a limited license submits a notarized statement from the employer stating that the applicant will not receive monetary compensation for any service involving the practice of his or her profession, the application and all licensure fees shall be waived.

Section 190. Section 455.2275, Florida Statutes, is amended to read:

455.2275 Penalty for giving false information.—In addition to, or in lieu of, any other discipline imposed pursuant to s. 455.227, the act of knowingly giving false information in the course of applying for or obtaining a license from the department or the Agency for Health Care Administration, or any board thereunder, with intent to mislead a public servant in the performance of his or her official duties, or the act of attempting to obtain or obtaining a license from either the department or the agency, or any board thereunder, to practice a profession by knowingly misleading statements or knowing misrepresentations constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 191. Paragraph (b) of subsection (1) of section 455.2416, Florida Statutes, is amended to read:

455.2416 Practitioner disclosure of confidential information; immunity from civil or criminal liability.—

(1) A practitioner regulated through the Division of Medical Quality Assurance of the department shall not be civilly or criminally liable for the disclosure of otherwise confidential information to a sexual partner or a needle-sharing partner under the following circumstances:

(b) The practitioner recommends the patient notify the sexual partner or the needle-sharing partner of the positive test and refrain from engaging in sexual or drug activity in a manner likely to transmit the virus and the patient refuses, and the practitioner informs the patient of his or her intent to inform the sexual partner or needle-sharing partner; and

However, any notification of a sexual partner or a needle-sharing partner pursuant to this section shall be done in accordance with protocols developed pursuant to rule of the Department of Health and Rehabilitative Services.

Section 192. Subsection (2) of section 455.245, Florida Statutes, is amended to read:

455.245 Certain health care practitioners; immediate suspension of license.—

(2) If the board has previously found any physician or osteopathic physician in violation of the provisions of s. 458.331(1)(t) or s. 459.015(1)(x), in regard to his or her treatment of three or more patients, and the probable cause panel of the board finds probable cause of an additional violation of that section, then the Director of Health Care Administration shall review the matter to determine if an emergency suspension or restriction order is warranted. Nothing in this section shall be construed so as to limit the authority of the secretary of the department or the Director of Health Care Administration to issue an emergency order.

Section 193. Paragraphs (d), (e), and (f) of subsection (2) of section 455.2456, Florida Statutes, are amended to read:

455.2456 Boards regulating certain health care practitioners.—

(2) The board may grant exemptions upon application by practitioners meeting any of the following criteria:

(d) Any person licensed or certified under chapter 457, chapter 460, chapter 461, s. 464.012, or chapter 466 who practices only in conjunction with his or her teaching duties at an accredited school or in its main teaching hospitals. Such person may engage in the practice of medicine to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the school.

(e) Any person holding an active license or certification under chapter 457, chapter 460, chapter 461, s. 464.012, or chapter 466 who is not practicing in this state. If such person initiates or resumes practice in this state, he or she must notify the department of such activity.

(f) Any person who can demonstrate to the board that he or she has no malpractice exposure in the state.

Section 194. Subsection (3) of section 456.31, Florida Statutes, is amended to read:

456.31 Legislative intent.—

(3) It is, therefore, the intent and purpose of this chapter to regulate the practice of hypnosis for therapeutic purposes by providing that such hypnotic techniques shall be used only by certain practitioners of the healing arts within the limits and framework of their own particular field of competence; or by qualified persons to whom a patient may be referred, in which event the referring practitioner of the healing arts shall be responsible,

severally or jointly, for any injury or damages resulting to the patient because of either his or her own incompetence, or the incompetence of the person to whom the patient was referred.

Section 195. Subsection (3) of section 456.32, Florida Statutes, is amended to read:

456.32 Definitions.—In construing this chapter, the words, phrases, or terms, unless the context otherwise indicates, shall have the following meanings:

(3) “Practitioner of the healing arts” shall mean a person licensed under the laws of the state to practice medicine, surgery, psychiatry, dentistry, osteopathic medicine, chiropractic, naturopathy, podiatry, chiropody, or optometry within the scope of his or her professional training and competence and within the purview of the statutes applicable to his or her respective profession, and who may refer a patient for treatment by a qualified person, who shall employ hypnotic techniques under the supervision, direction, prescription, and responsibility of such referring practitioner.

Section 196. Paragraph (a) of subsection (2) of section 457.105, Florida Statutes, is amended to read:

457.105 Certification qualifications and fees.—

(2) A person may become certified to practice acupuncture if the applicant:

(a) Is 18 years of age or older and meets one of the following criteria:

1. ~~He~~ Is a citizen of the United States;
2. ~~He~~ Is a permanent resident of the United States; or
3. ~~He~~ Is a legal alien who has resided in the United States for 6 months immediately prior to qualifying for examination;

Section 197. Paragraphs (j), (o), (q), and (t) of subsection (1) and subsection (3) of section 457.109, Florida Statutes, are amended to read:

457.109 Disciplinary actions; grounds; action by the board.—

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

(j) Exercising influence within a patient-acupuncturist relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her acupuncturist.

(o) Being unable to practice acupuncture with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding of the secretary or the

secretary's ~~his~~ designee that probable cause exists to believe that the certificateholder is unable to serve as an acupuncturist due to the reasons stated in this paragraph, the department shall have the authority to issue an order to compel the certificateholder to submit to a mental or physical examination by a physician designated by the department. If the certificateholder refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the certificateholder resides or serves as an acupuncturist. The certificateholder against whom the petition is filed shall not be named or identified by initials in any public court record or document, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. An acupuncturist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of acupuncture with reasonable skill and safety to patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the department shall be used against an acupuncturist in any other proceeding.

(q) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the certificateholder knows or has reason to know that he or she is not competent to perform.

(t) Conspiring with another to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another certificateholder from lawfully advertising his or her services.

(3) The department shall not reinstate the certificate of an acupuncturist, or cause a certificate to be issued to a person it has deemed to be unqualified, until such time as the board is satisfied that he or she has complied with all the terms and conditions set forth in the final order and ~~that he~~ is capable of safely engaging in the practice of acupuncture.

Section 198. Paragraph (a) of subsection (1) of section 457.116, Florida Statutes, is amended to read:

457.116 Prohibited acts; penalty.—

(1) It is unlawful for any person to:

(a) Hold himself or herself out as a certified or licensed acupuncturist unless certified as provided herein.

Section 199. Subsection (4) of section 458.307, Florida Statutes, is amended to read:

458.307 Board of Medicine.—

(4) The board, in conjunction with the department, shall establish a disciplinary training program for board members. The program shall provide for initial and periodic training in the grounds for disciplinary action, the actions which may be taken by the board and the department, changes

in relevant statutes and rules, and any relevant judicial and administrative decisions. After January 1, 1989, no member of the board shall participate on probable cause panels or in disciplinary decisions of the board unless he or she has completed the disciplinary training program.

Section 200. Subsection (2) of section 458.309, Florida Statutes, is amended to read:

458.309 Authority to make rules.—

(2)(a) Any rules which the board adopts relating to the classroom phase of medical education shall not apply to any person who is enrolled in the classroom phase of medical education or has graduated prior to or at the time the rule becomes effective, so long as such person does not interrupt his or her medical education.

(b)1. Any rules which the board adopts relating to the clinical clerkship phase of medical education shall not apply to any person who is enrolled in the clinical clerkship phase of medical education prior to or at the time the rule becomes effective, so long as such person does not interrupt his or her medical education.

2. Rules adopted by the Florida Board of Medical Examiners prior to October 1, 1986, and relating to clinical clerkships for graduates of foreign medical schools do not apply to any such graduate who:

a. Had completed a ~~his~~ clinical clerkship prior to the effective date of the rule; or

b. Had begun a ~~his~~ clinical clerkship but had not completed the clinical clerkship prior to the effective date of the rule, so long as the clinical clerkship took no longer than 3 years to complete.

(c) Any rules which the board adopts relating to residency shall not apply to any person who has begun his or her residency prior to or at the time the rule becomes effective, so long as such person does not interrupt the ~~his~~ residency.

Section 201. Subsection (4) of section 458.310, Florida Statutes, is amended to read:

458.310 Restricted licenses.—

(4) If the restricted licensee breaches the terms of the employment contract, he or she may not be licensed as a physician in this state under any licensing provisions.

Section 202. Subsection (1) of section 458.315, Florida Statutes, is amended to read:

458.315 Temporary certificate for practice in areas of critical need.—Any physician who is licensed to practice in any other state, whose license is currently valid, and who pays an application fee of \$300 may be issued a temporary certificate to practice in communities of Florida where there is

a critical need for physicians. A certificate may be issued to a physician who will be employed by a county public health unit, correctional facility, community health center funded by s. 329, s. 330, or s. 340 of the United States Public Health Services Act, or other entity that provides health care to indigents and that is approved by the State Health Officer. The Board of Medicine may issue this temporary certificate with the following restrictions:

(1) The board shall determine the areas of critical need, and the physician so certified may practice only in that specific area for a time to be determined by the board. Such areas shall include, but not be limited to, health ~~professional manpower~~ shortage areas designated by the United States Department of Health and Human Services.

Section 203. Subsection (1) and paragraph (a) of subsection (2) of section 458.316, Florida Statutes, are amended to read:

458.316 Public health certificate.—

(1) Any person desiring to obtain a public health certificate shall submit an application fee not to exceed \$300 and shall demonstrate to the board that he or she is a graduate of an accredited medical school and holds a master of public health degree or is board eligible or certified in public health or preventive medicine, or is licensed to practice medicine without restriction in another jurisdiction in the United States and holds a master of public health degree or is board eligible or certified in public health or preventive medicine, and shall meet the requirements in s. 458.311(1)(a)-(f) and (5).

(2) Such certificate shall be issued pursuant to the following conditions:

(a) The certificate shall authorize the holder to practice only in conjunction with his or her employment duties with the Department of Health and Rehabilitative Services and shall automatically expire when the holder's relationship with the department is terminated.

Section 204. Paragraph (b) of subsection (1) of section 458.3165, Florida Statutes, is amended to read:

458.3165 Public psychiatry certificate.—The board shall issue a public psychiatry certificate to an individual who remits an application fee not to exceed \$300, as set by the board, who is a board-certified psychiatrist, who is licensed to practice medicine without restriction in another state, and who meets the requirements in s. 458.311(1)(a)-(f) and (5).

(1) Such certificate shall:

(b) Be issued and renewable biennially if the secretary of the Department of Health and Rehabilitative Services and the chair ~~chairman~~ of the department of psychiatry at one of the public medical schools or the chair ~~chairman~~ of the department of psychiatry at the accredited medical school at the University of Miami recommend in writing that the certificate be issued or renewed.

Section 205. Paragraphs (a), (c), and (d) of subsection (1) and subsection (2) of section 458.317, Florida Statutes, are amended to read:

458.317 Limited licenses.—

(1)(a) Any person desiring to obtain a limited license shall:

1. Submit to the board, with an application and fee not to exceed \$300, an affidavit stating that he or she has been licensed to practice medicine in any jurisdiction in the United States for at least 10 years and has retired or intends to retire from the practice of medicine and intends to practice only pursuant to the restrictions of a limited license granted pursuant to this section. If the person applying for a limited license submits a notarized statement from the employing agency or institution stating that he or she will not receive monetary compensation for any service involving the practice of medicine, the application fee and all licensure fees shall be waived.

2. Meet the requirements in s. 458.311(1)(b)-(f) and (5). If the applicant graduated from medical school prior to 1946, the board or its appropriate committee may accept military medical training or medical experience as a substitute for the approved 1-year residency requirement in s. 458.311(1)(f).

(c) If it has been more than 3 years since active practice was conducted by the applicant, the full-time director of the county public health unit or a licensed physician, approved by the board, shall supervise the applicant for a period of 6 months after he or she is granted a limited license for practice, unless the board determines that a shorter period of supervision will be sufficient to ensure that the applicant is qualified for licensure. Procedures for such supervision shall be established by the board.

(d) The recipient of a limited license may practice only in the employ of public agencies or institutions or nonprofit agencies or institutions meeting the requirements of s. 501(c)(3) of the Internal Revenue Code, which agencies or institutions are located in the areas of critical medical need as determined by the board. Determination of medically underserved areas shall be made by the board after consultation with the Department of Health and Rehabilitative Services and statewide medical organizations; however, such determination shall include, but not be limited to, health professional ~~man-~~power shortage areas designated by the United States Department of Health and Human Services.

Nothing herein limits in any way any policy by the board, otherwise authorized by law, to grant licenses to physicians duly licensed in other states under conditions less restrictive than the requirements of this section. Notwithstanding the other provisions of this section, the board may refuse to authorize a physician otherwise qualified to practice in the employ of any agency or institution otherwise qualified if the agency or institution has caused or permitted violations of the provisions of this chapter which it knew or should have known were occurring.

(2) The board shall notify the director of the full-time local health unit of any county in which a licensee intends to practice under the provisions

of this act. The director of the full-time health unit shall assist in the supervision of any licensee within the ~~his~~ county and shall notify the board which issued the licensee his or her license if he or she becomes aware of any actions by the licensee which would be grounds for revocation of the limited license. The board shall establish procedures for such supervision.

Section 206. Subsection (3) of section 458.319, Florida Statutes, is amended to read:

458.319 Renewal of license.—

(3) The licensee must have on file with the department the address of his or her primary place of practice within this state prior to engaging in that practice. Prior to changing the address of the ~~his~~ primary place of practice, whether or not within this state, the licensee shall notify the department of the address of the ~~his~~ new primary place of practice.

Section 207. Paragraphs (a) and (c) of subsection (2) of section 458.324, Florida Statutes, are amended to read:

458.324 Breast cancer; information on treatment alternatives.—

(2) COMMUNICATION OF TREATMENT ALTERNATIVES.—Each physician treating a patient who is, or in the judgment of the physician is at high risk of being, diagnosed as having breast cancer shall inform such patient of the medically viable treatment alternatives available to such patient; shall describe such treatment alternatives; and shall explain the relative advantages, disadvantages, and risks associated with the treatment alternatives to the extent deemed necessary to allow the patient to make a prudent decision regarding such treatment options. In compliance with this subsection:

(a) The physician may, in his or her discretion:

1. Orally communicate such information directly to the patient or the patient's legal representative;

2. Provide the patient or the patient's legal representative with a copy of the written summary prepared in accordance with s. 240.5121(4)(m) and express a ~~his~~ willingness to discuss the summary with the patient or the patient's legal representative; or

3. Both communicate such information directly and provide a copy of the written summary to the patient or the patient's legal representative for further consideration and possible later discussion.

(c) The physician may, in his or her discretion and without restriction, recommend any mode of treatment which is in his or her judgment the best treatment for the patient.

Nothing in this subsection shall reduce other provisions of law regarding informed consent.

Section 208. Subsection (1) of section 458.325, Florida Statutes, is amended to read:

458.325 Electroconvulsive and psychosurgical procedures.—

(1) In each case of utilization of electroconvulsive or psychosurgical procedures, prior written consent shall be obtained after disclosure to the patient, if he or she is competent, or to the patient's his guardian, if he or she is a minor or incompetent, of the purpose of the procedure, the common side effects thereof, alternative treatment modalities, and the approximate number of such procedures considered necessary and that any consent given may be revoked by the patient or the patient's his guardian prior to or between treatments.

Section 209. Paragraph (c) of subsection (2) of section 458.327, Florida Statutes, is amended to read:

458.327 Penalty for violations.—

(2) Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

(c) Referring any patient, for health care goods or services, to a partnership, firm, corporation, or other business entity in which the physician or the physician's employer has an equity interest of 10 percent or more unless, prior to such referral, the physician notifies the patient of his or her financial interest and of the patient's right to obtain such goods or services at the location of the patient's choice. This section does not apply to the following types of equity interest:

1. The ownership of registered securities issued by a publicly held corporation or the ownership of securities issued by a publicly held corporation, the shares of which are traded on a national exchange or the over-the-counter market;

2. A physician's own practice, whether he or she is a sole practitioner or part of a group, when the health care good or service is prescribed or provided solely for the physician's own patients and is provided or performed by the physician or under the physician's his supervision; or

3. An interest in real property resulting in a landlord-tenant relationship between the physician and the entity in which the equity interest is held, unless the rent is determined, in whole or in part, by the business volume or profitability of the tenant or is otherwise unrelated to fair market value.

Section 210. Subsection (3) of section 458.3295, Florida Statutes, is amended to read:

458.3295 Concerted effort to refuse emergency room treatment to patients; penalties.—

(3) A violation by a physician of subsection (1) constitutes ground for disciplinary action against him or her by the board, including the suspension

or revocation of the physician's ~~his~~ license, and subjects him or her to liability for any damages that the hospital or any patient therein sustains as a result of the violation.

Section 211. Subsections (2) and (3) of section 458.335, Florida Statutes, are amended to read:

458.335 Prescription or administration of dimethyl sulfoxide (DMSO).—

(2) No physician shall be subject to disciplinary action by the Board of Medicine or Board of Osteopathic Medicine for prescribing or administering dimethyl sulfoxide (DMSO) to a patient under his or her care who has requested the substance.

(3) The patient, after being fully informed as to alternative methods of treatment and their potential for cure and upon request for the administration of dimethyl sulfoxide (DMSO) by his or her physician, shall sign a written release, releasing the physician and, when applicable, the hospital or health facility from any liability therefor.

Section 212. Subsection (2) of section 458.346, Florida Statutes, is amended to read:

458.346 Public Sector Physician Advisory Committee.—

(2) PUBLIC SECTOR PHYSICIAN ADVISORY COMMITTEE.—There is hereby created a Public Sector Physician Advisory Committee which shall be comprised of three physicians. One physician shall be appointed by the ~~chair~~ chairman of the Board of Medicine. The two remaining physicians shall be appointed by the secretary of the department from recommendations of the appropriate organization, if any, representing such physicians for the purpose of collective bargaining. The ~~chair~~ chairman of the committee shall be one of the two public sector physicians who shall be elected by majority vote of the committee members. Members of the committee shall serve 3-year terms and meet at least on a quarterly basis. The initial term for one public sector physician shall be for 2 years, and the other for 3 years. Members of the committee are subject to reappointment. Committee members shall receive reimbursement for per diem and travel expenses.

Section 213. Paragraphs (a) and (b) of subsection (1) and subsection (4) of section 459.0075, Florida Statutes, are amended to read:

459.0075 Limited licenses.—

(1) Any person desiring to obtain a limited license shall:

(a) Submit to the board a licensure application and fee required by this chapter. However, if the person applying for a limited license submits a notarized statement from the employing agency or institution stating that she or he will not receive monetary compensation for any service involving the practice of osteopathic medicine, the application fee and all licensure fees shall be waived.

(b) Submit an affidavit that such osteopathic physician has been licensed to practice osteopathic medicine in any jurisdiction in the United States in good standing and pursuant to law for at least 10 years and has now retired and that she or he was in good standing at the time of her or his retirement.

(4) The board shall notify the director of the full-time local health unit of any county in which a licensee intends to practice under the provisions of this section. The director of the full-time health unit shall assist in the supervision of any licensee within her or his county and shall notify the board if she or he becomes aware of any action by the licensee which would be a ground for revocation of the limited license. The board shall establish procedures for such supervision.

Section 214. Subsection (1) of section 459.0077, Florida Statutes, is amended to read:

459.0077 Osteopathic faculty certificate.—

(1) The department may issue an osteopathic faculty certificate without examination to an individual who remits an application fee, as set by the board, who demonstrates to the board that she or he is currently licensed to practice osteopathic medicine in another jurisdiction in the United States and who demonstrates to the board that she or he is a graduate of an accredited school of osteopathic medicine and has completed the requirements of s. 459.0055. The certificate shall authorize the holder to practice only in conjunction with her or his teaching duties at an accredited school of osteopathic medicine or in its affiliated teaching hospitals or clinics.

Section 215. Subsection (3) of section 459.008, Florida Statutes, is amended to read:

459.008 Renewal of licenses and certificates.—

(3) The licensee or certificateholder must have on file with the department the address of her or his primary place of practice within this state prior to engaging in that practice. Prior to changing the address of her or his primary place of practice, whether or not within this state, the licensee or certificateholder must notify the department of the address of her or his new primary place of practice.

Section 216. Paragraphs (a) and (c) of subsection (2) of section 459.0125, Florida Statutes, are amended to read:

459.0125 Breast cancer; information on treatment alternatives.—

(2) COMMUNICATION OF TREATMENT ALTERNATIVES.—It is the obligation of every physician treating a patient who is, or in the judgment of the physician is at high risk of being, diagnosed as having breast cancer to inform such patient of the medically viable treatment alternatives available to such patient; to describe such treatment alternatives; and to explain the relative advantages, disadvantages, and risks associated with the treatment alternatives to the extent deemed necessary to allow the patient to make a prudent decision regarding such treatment options. In compliance with this subsection:

(a) The physician may, in her or his discretion:

1. Orally communicate such information directly to the patient or the patient's legal representative;

2. Provide the patient or the patient's legal representative with a copy of the written summary prepared in accordance with s. 240.5121(4)(m) and express her or his willingness to discuss the summary with the patient or the patient's legal representative; or

3. Both communicate such information directly and provide a copy of the written summary to the patient or the patient's legal representative for further consideration and possible later discussion.

(c) The physician may, in her or his discretion and without restriction, recommend any mode of treatment which is in the physician's his judgment the best treatment for the patient.

Nothing in this subsection shall reduce other provisions of law regarding informed consent.

Section 217. Paragraph (b) of subsection (3) of section 459.013, Florida Statutes, is amended to read:

459.013 Penalty for violations.—

(3) Each of the following constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083:

(b) Referring any patient, for health care goods or services, to any partnership, firm, corporation, or other business entity in which the physician or the physician's employer has an equity interest of 10 percent or more unless, prior to such referral, the physician notifies the patient of her or his financial interest and of the patient's right to obtain such goods or services at the location of the patient's choice. This section shall not apply to the following types of equity interest:

1. The ownership of registered securities issued by a publicly held corporation or the ownership of securities issued by a publicly held corporation, the shares of which are traded on a national exchange or the over-the-counter market;

2. A physician's own practice, whether the physician is a sole practitioner or part of a group, when the health care good or service is prescribed or provided solely for the physician's own patients and is provided or performed by the physician or under the physician's supervision; or

3. An interest in real property resulting in a landlord-tenant relationship between the physician and the entity in which the equity interest is held, unless the rent is determined, in whole or in part, by the business volume or profitability of the tenant or is otherwise unrelated to fair market value.

Section 218. Subsection (3) of section 459.0145, Florida Statutes, is amended to read:

459.0145 Concerted effort to refuse emergency room treatment to patients; penalties.—

(3) A violation by a physician of subsection (1) constitutes ground for disciplinary action against the physician ~~him~~ by the board, including the suspension or revocation of her or his license, and subjects the physician ~~him~~ to liability for any damages that the hospital or any patient therein sustains as a result of the violation.

Section 219. Subsection (5) of section 460.402, Florida Statutes, is amended to read:

460.402 Exceptions.—The provisions of this chapter shall not apply to:

(5) Any massage therapist acting within her or his scope of practice authorized in chapter 480.

Section 220. Subsection (2), paragraph (a) of subsection (5), and subsections (6) and (10) of section 460.4165, Florida Statutes, are amended to read:

460.4165 Chiropractic physician's assistants.—

(2) PERFORMANCE BY CERTIFIED CHIROPRACTIC PHYSICIAN'S ASSISTANT.—Notwithstanding any other provision of law, a certified chiropractic physician's assistant may perform chiropractic services in the specialty area or areas for which the certified chiropractic physician's assistant is trained or experienced when such services are rendered under the supervision of a licensed chiropractic physician or group of chiropractic physicians certified by the board. Any certified chiropractic physician's assistant certified under this section to perform services may perform those services only:

(a) In the office of the chiropractic physician to whom the certified chiropractic physician's assistant has been assigned, in which office such physician maintains her or his primary practice;

(b) When the chiropractic physician to whom she or he is assigned is present;

(c) In a hospital in which the chiropractic physician to whom she or he is assigned is a member of the staff; or

(d) On calls outside said office, on the direct order of the chiropractic physician to whom she or he is assigned.

(5) APPLICATION APPROVAL.—

(a) The board shall adopt rules for the consideration of applications by a licensed chiropractic physician or a group of licensed chiropractic physicians to supervise certified chiropractic physician's assistants. Each application made by a chiropractic physician or group of chiropractic physicians shall include all of the following:

1. The qualifications, including related experience, of the certified chiropractic physician's assistant intended to be employed.

2. The professional background and specialty of the chiropractic physician or the group of chiropractic physicians.
3. A description by the chiropractic physician of her or his practice, or by the chiropractic physicians of their practice, and of the way in which the assistant or assistants are to be utilized.

The board shall certify an application by a licensed chiropractic physician to supervise a certified chiropractic physician's assistant when the proposed assistant is a graduate of an approved program or its equivalent and is fully qualified by reason of experience and education to perform chiropractic services under the responsible supervision of a licensed chiropractic physician and when the board is satisfied that the public will be adequately protected by the arrangement proposed in the application.

(6) PENALTY.—Any person who has not been certified by the board and approved by the department and who represents herself or himself as a certified chiropractic physician's assistant or who uses any other term in indicating or implying that she or he is a certified chiropractic physician's assistant is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.084 or by a fine not exceeding \$5,000.

(10) LIABILITY.—Each chiropractic physician or group of chiropractic physicians utilizing certified chiropractic physician's assistants shall be liable for any act or omission of any physician's assistant acting under her or his or its supervision and control.

Section 221. Subsection (4) of section 461.004, Florida Statutes, is amended to read:

461.004 Board of Podiatric Medicine; membership; appointment; terms.—

(4) All provisions of chapter 455 relating to the board shall apply. However, notwithstanding the requirement of s. 455.225(4) that the board provide by rule for the determination of probable cause by a panel composed of its members or by the department, the board may provide by rule that its probable cause panel may be composed of one current member of the board and one past member of the board, as long as the past member is a licensed podiatrist in good standing. The past board member must be appointed to the panel by the chair ~~chairman~~ of the board with the approval of the secretary for a maximum of 2 years.

Section 222. Paragraph (b) of subsection (2) of section 461.006, Florida Statutes, is amended to read:

461.006 Licensure by examination.—

(2)

(b) If an applicant fails to pass the examination in three attempts, she or he shall not be eligible for reexamination unless she or he completes additional educational requirements or training requirements prescribed by

the board. An applicant who has completed the additional educational or training requirements prescribed by the board may take the examination on two more occasions. If the applicant has failed to pass the examination after five attempts, she or he is no longer eligible to take the examination.

Section 223. Paragraphs (n), (o), (p), (r), (u), and (x) of subsection (1) and subsections (3) and (6) of section 461.013, Florida Statutes, are amended to read:

461.013 Grounds for disciplinary action; action by the board; investigations by department.—

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

(n) Performing professional services which have not been duly authorized by the patient or client or her or his legal representative except as provided in ss. 743.064, 766.103, and 768.13.

(o) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including all controlled substances, other than in the course of the podiatrist's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the podiatrist's professional practice, without regard to her or his intent.

(p) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the podiatrist to herself or himself except those prescribed, dispensed, or administered to the podiatrist by another practitioner authorized to prescribe, dispense, or administer them.

(r) Being unable to practice podiatric medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph the department shall, upon probable cause, have authority to compel a podiatrist to submit to a mental or physical examination by physicians designated by the department. Failure of a podiatrist to submit to such examination when directed shall constitute an admission of the allegations against her or him, unless the failure was due to circumstances beyond her or his control, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A podiatrist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of podiatric medicine with reasonable skill and safety to patients.

(u) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(x) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(3) The department shall not reinstate the license of a podiatrist, or cause a license to be issued to a person the board has deemed unqualified, until such time as the board is satisfied that she or he has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of podiatric medicine.

(6) When an investigation of a podiatrist is undertaken, the department shall promptly furnish to the podiatrist or her or his attorney a copy of the complaint or document which resulted in the initiation of the investigation. The podiatrist may submit a written response to the information contained in such complaint or document within 45 days after service to the podiatrist of the complaint or document. The podiatrist's written response shall be considered by the probable cause panel.

Section 224. Subsections (1) and (2) of section 461.0134, Florida Statutes, are amended to read:

461.0134 Prescription or administration of dimethyl sulfoxide (DMSO); written release and information requirements.—

(1) No podiatrist licensed under this chapter shall be subject to disciplinary action by the board for prescribing or administering dimethyl sulfoxide (DMSO) to a patient under the podiatrist's ~~his~~ care who has requested the substance as long as the podiatrist complies with the requirements of this section.

(2) The patient, after being fully informed as to alternative methods of treatment and their potential for cure and upon request for the administration of dimethyl sulfoxide (DMSO) by the patient's ~~his~~ podiatrist, shall sign a written release, releasing the podiatrist and, when applicable, the hospital or health facility from any liability therefor.

Section 225. Section 462.08, Florida Statutes, is amended to read:

462.08 Renewal of license to practice naturopathy.—Each licenseholder shall biennially renew her or his license to practice naturopathy. The applicant must furnish to the department such evidence as it requires of the applicant's compliance with s. 462.18, relating to educational requirements. The biennial renewal fee, the amount of which shall be determined by the department but which may not exceed \$1,000, must be paid at the time the application for renewal of the license is filed.

Section 226. Paragraphs (k), (p), (q), (r), (s), (v), and (y) of subsection (1) of section 462.14, Florida Statutes, are amended to read:

462.14 Grounds for disciplinary action; action by the department.—

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

(k) Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with her or his physician.

(p) Performing professional services which have not been duly authorized by the patient or client, or her or his legal representative, except as provided in s. 743.064, s. 766.103, or s. 768.13.

(q) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the naturopathic physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the naturopathic physician's professional practice, without regard to her or his intent.

(r) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the naturopathic physician to herself or himself, except one prescribed, dispensed, or administered to the naturopathic physician by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

(s) Being unable to practice naturopathic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel a naturopathic physician to submit to a mental or physical examination by physicians designated by the department. The failure of a naturopathic physician to submit to such an examination when so directed shall constitute an admission of the allegations against her or him upon which a default and final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond the naturopathic physician's his control. A naturopathic physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of naturopathic medicine with reasonable skill and safety to patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the department may be used against a naturopathic physician in any other proceeding.

(v) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(y) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

Section 227. Section 462.16, Florida Statutes, is amended to read:

462.16 Reissue of license.—Any person who shall practice naturopathy after her or his license has been revoked and registration annulled shall be deemed to have practiced naturopathy without a license; provided, however, at any time after 6 months after the date of said conviction, the department may grant a license to the person affected, restoring to her or him all the rights and privileges of and pertaining to the practice of naturopathy as defined and regulated by this chapter. The fee therefor shall not exceed \$250.

Section 228. Subsections (3), (5), and (6) of section 462.17, Florida Statutes, are amended to read:

462.17 Penalty for offenses relating to naturopathy.—Any person who shall:

(3) Advertise to practice naturopathy under a name other than her or his own or under an assumed name;

(5) Practice or advertise to practice naturopathy or use in connection with her or his name any designation tending to imply or to designate the person ~~him~~ as a practitioner of naturopathy without then being lawfully licensed and authorized to practice naturopathy in this state; or

(6) Practice naturopathy during the time her or his license is suspended or revoked

shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 229. Subsection (1) of section 462.18, Florida Statutes, is amended to read:

462.18 Educational requirements.—

(1) At the time each licensee shall renew her or his license as otherwise provided in this chapter, each licensee, beginning with the license renewal due May 1, 1944, in addition to the payment of the regular renewal fee, shall furnish to the department satisfactory evidence that, in the year preceding each such application for renewal, the licensee ~~he~~ has attended the 2-day educational program as promulgated and conducted by the Florida Naturopathic Physicians Association, Inc., or, as a substitute therefor, the equivalent of that program as approved by the department. The department shall send a written notice to this effect to every person holding a valid license to practice naturopathy within this state at least 30 days prior to May 1 in each biennial year, directed to the last known address of such licensee, and shall enclose with the notice proper blank forms for application for annual license renewal. All of the details and requirements of the aforesaid educational program shall be adopted and prescribed by the department. In the event of national emergencies, or for sufficient reason, the department shall have the power to excuse the naturopathic physicians as a group or as individuals from taking this postgraduate course.

Section 230. Subsection (3) of section 462.19, Florida Statutes, is amended to read:

462.19 Renewal of license; inactive status.—

(3) A licensee may request that her or his license be placed in an inactive status by making application to the department and paying a fee in an amount set by the department not to exceed \$50.

Section 231. Section 463.001, Florida Statutes, is amended to read:

463.001 Purpose; intent.—The sole legislative purpose in enacting this chapter is to ensure that every person engaged in the practice of optometry in this state meets minimum requirements for safe practice. It is the legislative intent that such persons who fall below minimum standards or who otherwise present a danger to the public shall be prohibited from practicing in this state. Nothing in this chapter shall be construed to prevent a person licensed under chapter 458, chapter 459, or part I of chapter 484 from performing those services which she or he is licensed to perform. The provisions of this chapter shall have no application to any person furnishing assistance in case of an emergency.

Section 232. Paragraph (b) of subsection (3) of section 463.002, Florida Statutes, is amended to read:

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

(3)

(b) A licensed practitioner who is not a certified optometrist shall be required to display at her or his place of practice a sign which states, "I am a Licensed Practitioner, not a Certified Optometrist, and I am not able to prescribe topical ocular pharmaceutical agents."

Section 233. Subsections (1) and (2) of section 463.0057, Florida Statutes, are amended to read:

463.0057 Optometric faculty certificate.—

(1) The department may issue an optometric faculty certificate without examination to an individual who remits a nonrefundable application fee, not to exceed \$100 plus the actual per applicant cost to the department, and who demonstrates to the board that she or he meets the following requirements:

(a) Is a graduate of an accredited school or college of optometry approved by an accrediting agency recognized by the United States Office of Education.

(b) Holds a valid current license to practice optometry in another jurisdiction in the United States.

(c) Is at least 21 years of age and of good moral character.

(d) Has not committed any act or offense in any jurisdiction which would constitute the basis for disciplining an optometrist.

(e) Has been offered and has accepted a full-time faculty appointment to teach in a program of optometry at a Florida-based college of optometry.

(f) Provides a certification from the dean of the college that she or he has accepted the offer of the full-time faculty appointment to teach at the Florida-based college of optometry.

(2) The certificate shall authorize the holder to practice only in conjunction with her or his faculty position at a Florida-based optometry school and its affiliated clinics which are registered with the board as sites at which holders of optometric faculty certificates will be practicing. Such certificates shall automatically expire upon termination of the holder's relationship with the school or after a period of 2 years, whichever occurs first.

Section 234. Paragraph (b) of subsection (1) of section 463.006, Florida Statutes, is amended to read:

463.006 Licensure and certification by examination.—

(1) Any person desiring to be a licensed practitioner pursuant to this chapter shall apply to the department to take the licensure and certification examinations. The department shall examine each applicant who the board determines has:

(b) Submitted proof satisfactory to the department that she or he:

1. Is at least 18 years of age.
2. Has graduated from an accredited school or college of optometry approved by rule of the board.
3. Is of good moral character.
4. Has successfully completed at least 110 hours of transcript-quality coursework and clinical training in general and ocular pharmacology as determined by the board, at an institution that:
 - a. Has facilities for both didactic and clinical instructions in pharmacology; and
 - b. Is accredited by a regional or professional accrediting organization that is recognized and approved by the Commission on Recognition of Post-secondary Accreditation or the United States Department of Education.
5. Has completed at least 1 year of supervised experience in differential diagnosis of eye disease or disorders as part of the optometric training or in a clinical setting as part of the optometric experience.

Section 235. Section 463.009, Florida Statutes, is amended to read:

463.009 Supportive personnel.—No person other than a licensed practitioner may engage in the practice of optometry as defined in s. 463.002(5).

Except as provided in this section, under no circumstances shall nonlicensed supportive personnel be delegated diagnosis or treatment duties; however, such personnel may perform data gathering, preliminary testing, prescribed visual therapy, and related duties under the direct supervision of the licensed practitioner. Nonlicensed personnel, who need not be employees of the licensed practitioner, may perform ministerial duties, tasks, and functions assigned to them by and performed under the general supervision of a licensed practitioner, including obtaining information from consumers for the purpose of making appointments for the licensed practitioner. The licensed practitioner shall be responsible for all delegated acts performed by persons under her or his direct and general supervision.

Section 236. Section 463.012, Florida Statutes, is amended to read:

463.012 Prescriptions; filing; release; duplication.—

(1) A licensed practitioner shall keep on file for a period of at least 2 years any prescription she or he writes.

(2)(a) A licensed practitioner shall make available to the patient or her or his agent any spectacle prescription or duplicate copy determined for that patient. Such prescription shall be considered a valid prescription to be filled for a period of 5 years.

(b) A licensed practitioner shall make available to the patient or her or his agent any daily wear soft contact lens prescription or duplicate copy determined for that patient. Such prescription shall be considered a valid prescription to be filled for a period of 2 years.

Section 237. Subsection (1) of section 463.0135, Florida Statutes, is amended to read:

463.0135 Standards of practice.—

(1) A licensed practitioner shall provide that degree of care which conforms to that level of care provided by medical practitioners in the same or similar communities. A licensed practitioner shall advise or assist her or his patient in obtaining further care when the service of another health care practitioner is required.

Section 238. Paragraphs (e), (i), (o), and (s) of subsection (1) and subsection (3) of section 463.016, Florida Statutes, are amended to read:

463.016 Grounds for disciplinary action; action by the board.—

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

(e) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which are signed by the licensee in her or his capacity as a licensed practitioner.

(i) Conspiring with another licensee or with any person to commit an act, or committing an act, which would coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(o) Being unable to practice optometry with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. A licensed practitioner affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of optometry with reasonable skill and safety to patients.

(s) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensed practitioner knows or has reason to know she or he is not competent to perform.

(3) The board shall not reinstate the license of a person, or cause a license to be issued to a person it has deemed unqualified, until such time as it is satisfied that she or he has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of optometry.

Section 239. Subsections (1), (5), and (13) of section 465.003, Florida Statutes, are amended to read:

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

(1) “Administration” means the obtaining and giving of a single dose of medicinal drugs by a legally authorized person to a patient for her or his consumption.

(5) “Dispense” means the transfer of possession of one or more doses of a medicinal drug by a pharmacist to the ultimate consumer or her or his agent. As an element of dispensing, the pharmacist shall, prior to the actual physical transfer, interpret and assess the prescription order for potential adverse reactions, interactions, and dosage regimen she or he deems appropriate in the exercise of her or his professional judgment, and the pharmacist ~~he~~ shall certify that the medicinal drug called for by the prescription is ready for transfer. The pharmacist shall also provide counseling on proper drug usage, either orally or in writing, if in the exercise of her or his professional judgment counseling is necessary. The actual sales transaction and delivery of such drug shall not be considered dispensing. The administration shall not be considered dispensing.

(13) “Prescription” includes any order for drugs or medicinal supplies written or transmitted by any means of communication by a duly licensed practitioner authorized by the laws of the state to prescribe such drugs or medicinal supplies and intended to be dispensed by a pharmacist. The term also includes an orally transmitted order by the lawfully designated agent of such practitioner. The term also includes an order written or transmitted by a practitioner licensed to practice in a jurisdiction other than this state, but only if the pharmacist called upon to dispense such order determines,

in the exercise of her or his professional judgment, that the order is valid and necessary for the treatment of a chronic or recurrent illness. The term "prescription" also includes a pharmacist's order for a product selected from the formulary created pursuant to s. 465.186. Prescriptions may be retained in written form or the pharmacist may cause it to be recorded in a data processing system, provided that such order can be produced in printed form upon lawful request.

Section 240. Paragraphs (b) and (c) of subsection (1) of section 465.007, Florida Statutes, are amended to read:

465.007 Licensure by examination.—

(1) Any person desiring to be licensed as a pharmacist shall apply to the department to take the licensure examination. The department shall examine each applicant who the board certifies has:

(b) Submitted satisfactory proof that she or he is not less than 18 years of age and:

1. Is a recipient of a degree from a school or college of pharmacy accredited by an accrediting agency recognized and approved by the United States Office of Education; or

2. Is a graduate of a 4-year undergraduate pharmacy program of a school or college of pharmacy located outside the United States, has demonstrated proficiency in English by passing both the Test of English as a Foreign Language (TOEFL) and the Test of Spoken English (TSE), has passed the Foreign Pharmacy Graduate Equivalency Examination that is approved by rule of the board, and has completed a minimum of 500 hours in a supervised work activity program within this state under the supervision of a pharmacist licensed by the department, which program is approved by the board.

(c) Submitted satisfactory proof that she or he has completed an internship program approved by the board. No such board-approved program shall exceed 2,080 hours, all of which may be obtained prior to graduation.

Section 241. Subsection (1) of section 465.009, Florida Statutes, is amended to read:

465.009 Continuing professional pharmaceutical education.—

(1) No license renewal shall be issued by the department until the licensee submits proof satisfactory to the board that during the 2 years prior to her or his application for renewal the licensee ~~he~~ has participated in not less than 15 hours per year of continuing professional pharmaceutical education in courses approved by the board.

Section 242. Section 465.014, Florida Statutes, is amended to read:

465.014 Pharmacy technician.—No person other than a licensed pharmacist or pharmacy intern may engage in the practice of the profession of pharmacy, except that a licensed pharmacist may delegate to nonlicensed pharmacy technicians those duties, tasks, and functions which do not fall

within the purview of s. 465.003(12). All such delegated acts shall be performed under the direct supervision of a licensed pharmacist who shall be responsible for all such acts performed by persons under her or his supervision. No licensed pharmacist shall supervise more than one pharmacy technician unless otherwise permitted by the guidelines adopted by the board. The board shall establish guidelines to be followed by licensees or permittees in determining the circumstances under which a licensed pharmacist may supervise more than one but not more than two pharmacy technicians.

Section 243. Paragraph (a) of subsection (2) and paragraph (a) of subsection (3) of section 465.015, Florida Statutes, are amended to read:

465.015 Violations and penalties.—

(2) It is unlawful for any person:

(a) To make a false or fraudulent statement, either for herself or himself or for another person, in any application, affidavit, or statement presented to the board or in any proceeding before the board.

(3)(a) It is unlawful for any person other than a pharmacist licensed under this chapter to use the title “pharmacist” or “druggist” or otherwise lead the public to believe that she or he is engaged in the practice of pharmacy.

Section 244. Paragraphs (d), (j), and (m) of subsection (1) and subsection (3) of section 465.016, Florida Statutes, are amended to read:

465.016 Disciplinary actions.—

(1) The following acts shall be grounds for disciplinary action set forth in this section:

(d) Being unfit or incompetent to practice pharmacy by reason of:

1. Habitual intoxication.

2. The misuse or abuse of any medicinal drug appearing in any schedule set forth in chapter 893.

3. Any abnormal physical or mental condition which threatens the safety of persons to whom she or he might sell or dispense prescriptions, drugs, or medical supplies or for whom she or he might manufacture, prepare, or package, or supervise the manufacturing, preparation, or packaging of, prescriptions, drugs, or medical supplies.

(j) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by federal or state law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records include only those which the licensee is required to make or file in her or his capacity as a licensed pharmacist.

(m) Being unable to practice pharmacy with reasonable skill and safety by reason of illness, use of drugs, narcotics, chemicals, or any other type of

material or as a result of any mental or physical condition. A pharmacist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of pharmacy with reasonable skill and safety to her or his customers.

(3) The board shall not reinstate the license of a pharmacist, or cause a license to be issued to a person it has deemed unqualified, until such time as it is satisfied that she or he has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of pharmacy.

Section 245. Subsection (2) of section 465.017, Florida Statutes, is amended to read:

465.017 Authority to inspect.—

(2) Except as permitted by this chapter, and chapters 406, 409, 455, 499, and 893, records maintained in a pharmacy relating to the filling of prescriptions and the dispensing of medicinal drugs shall not be furnished to any person other than to the patient for whom the drugs were dispensed, or her or his legal representative, or to the department pursuant to existing law, or, in the event that the patient is incapacitated or unable to request said records, her or his spouse except upon the written authorization of such patient. Such records may be furnished in any civil or criminal proceeding, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient or her or his legal representative by the party seeking such records.

Section 246. Subsection (2) of section 465.025, Florida Statutes, is amended to read:

465.025 Substitution of drugs.—

(2) A pharmacist who receives a prescription for a brand name drug shall, unless requested otherwise by the purchaser, substitute a less expensive, generically equivalent drug product that is:

(a) Distributed by a business entity doing business, and subject to suit and service of legal process, in the United States; and

(b) Listed in the formulary of generic and brand name drug products as provided in subsection (5) for the brand name drug prescribed,

unless the prescriber writes the words "MEDICALLY NECESSARY," in her or his own handwriting, on the face of a written prescription or unless, in the case of an oral prescription, the prescriber expressly indicates to the pharmacist that the brand name drug prescribed is medically necessary.

Section 247. Paragraph (a) of subsection (1) and subsection (2) of section 465.026, Florida Statutes, are amended to read:

465.026 Filling of certain prescriptions.—Nothing contained in this chapter shall be construed to prohibit a pharmacist licensed in this state

from filling or refilling a valid prescription which is on file in a pharmacy located in this state or in another state and has been transferred from one pharmacy to another by any means, including transfer by way of electronic data processing equipment, under the following conditions:

(1) Prior to dispensing pursuant to any such prescription, the dispensing pharmacist shall:

(a) Advise the patient that the prescription on file at such other pharmacy must be canceled before she or he will be able to fill or refill it.

(2) Upon receipt of a request for prescription information set forth in paragraph (1)(d), if the requested pharmacist is satisfied in her or his professional judgment that such request is valid, the requested pharmacist shall:

(a) Provide such information accurately and completely.

(b) Record on the prescription or record with data processing equipment the name of the requesting pharmacy and pharmacist and the date of request.

(c) Cancel the prescription on file by recording the word "void" on the prescription record. No further prescription information shall be given or medication dispensed pursuant to said original prescription.

Section 248. Subsection (1), paragraph (a) of subsection (2), and subsections (3), (4), and (5) of section 465.0276, Florida Statutes, are amended to read:

465.0276 Dispensing practitioner.—

(1) A person may not dispense medicinal drugs unless licensed as a pharmacist or otherwise authorized under this chapter to do so, except that a practitioner authorized by law to prescribe drugs may dispense such drugs to her or his patients in the regular course of her or his practice in compliance with this section.

(2) A practitioner who dispenses medicinal drugs for human consumption for fee or remuneration of any kind, whether direct or indirect, must:

(a) Register with her or his professional licensing board as a dispensing practitioner and pay a fee not to exceed \$100 at the time of such registration and upon each renewal of her or his license. Each appropriate board shall establish such fee by rule.

(3) The department shall inspect any facility where a practitioner dispenses medicinal drugs pursuant to subsection (2) in the same manner and with the same frequency as it inspects pharmacies for the purpose of determining whether the practitioner is in compliance with all statutes and rules applicable to her or his dispensing practice.

(4) The registration of any practitioner who has been found by her or his respective board to have dispensed medicinal drugs in violation of this chapter shall be subject to suspension or revocation.

(5) A practitioner who confines her or his activities to the dispensing of complimentary packages of medicinal drugs to the practitioner's ~~his~~ own patients in the regular course of her or his practice, without the payment of fee or remuneration of any kind, whether direct or indirect, and who herself or himself dispenses such drugs is not required to register pursuant to this section. The practitioner must dispense such drugs in the manufacturer's labeled package with the practitioner's name, patient's name, and date dispensed, or, if such drugs are not dispensed in the manufacturer's labeled package, they must be dispensed in a container which bears the following information:

- (a) Practitioner's name;
- (b) Patient's name;
- (c) Date dispensed;
- (d) Name and strength of drug; and
- (e) Directions for use.

Section 249. Subsection (1) of section 465.186, Florida Statutes, is amended to read:

465.186 Pharmacist's order for medicinal drugs; dispensing procedure; development of formulary.—

(1) There is hereby created a committee composed of two members of the Board of Medicine licensed under chapter 458 chosen by said board, one member of the Board of Osteopathic Medicine licensed under chapter 459 chosen by said board, three members of the Board of Pharmacy licensed under this chapter and chosen by said board, and one additional person with a background in health care or pharmacology chosen by the committee. The committee shall establish a formulary of medicinal drug products and dispensing procedures which shall be used by a pharmacist when ordering and dispensing such drug products to the public. Dispensing procedures may include matters related to reception of patient, description of her or his condition, patient interview, patient physician referral, product selection, and dispensing and use limitations. In developing the formulary of medicinal drug products, the committee may include products falling within the following categories:

(a) Any medicinal drug of single or multiple active ingredients in any strengths when such active ingredients have been approved individually or in combination for over-the-counter sale by the United States Food and Drug Administration.

(b) Any medicinal drug recommended by the United States Food and Drug Administration Advisory Panel for transfer to over-the-counter status pending approval by the United States Food and Drug Administration.

(c) Any medicinal drug containing any antihistamine or decongestant as a single active ingredient or in combination.

- (d) Any medicinal drug containing fluoride in any strength.
- (e) Any medicinal drug containing lindane in any strength.

However, any drug which is sold as an over-the-counter proprietary drug under federal law shall not be included in the formulary or otherwise affected by this section.

Section 250. Subsection (1) of section 466.002, Florida Statutes, is amended to read:

466.002 Persons exempt from operation of chapter.—Nothing in this chapter shall apply to the following practices, acts, and operations:

(1) The practice of her or his profession including surgical procedures involving the oral cavity by a physician or surgeon licensed as such under the laws of this state.

Section 251. Subsections (2) and (3) and paragraphs (b) and (c) of subsection (4) of section 466.006, Florida Statutes, are amended to read:

466.006 Examination of dentists.—

(2) An applicant shall be entitled to take the examinations required in this section to practice dentistry in this state if the applicant ~~he~~:

(a) Is 18 years of age or older.

(b) Is a graduate of a dental school accredited by the Commission on Accreditation of the American Dental Association or its successor agency, if any, or any other nationally recognized accrediting agency.

(c) Has successfully completed the National Board of Dental Examiners dental examination within 10 years of the date of application.

(3) If an applicant is a graduate of a dental college or school not accredited in accordance with paragraph (2)(b) or of a dental college or school not approved by the board, the applicant ~~he~~ shall not be entitled to take the examinations required in this section to practice dentistry until she or he meets the following requirements:

(a) Furnishes evidence to the board of a score on the examination of the National Board of Dental Examiners taken within 10 years of the date of application, which score is at least equal to the minimum score required for certification by that board. If the applicant fails to attain the score needed for certification on part I of the national board examination in two attempts, or fails to attain the score needed for certification on part II of the national board examination in two attempts, the applicant ~~he~~ shall not be entitled to take the laboratory model examination authorized in paragraph (c).

(b) Submits, upon meeting the requirements of paragraph (a), the following credentials for review by the board:

1. Transcripts of preidental education and dental education totaling 7 academic years of postsecondary education, including 4 academic years of dental education; and
2. A dental school diploma.

The board shall not review the credentials specified in this paragraph until the applicant has furnished to the board evidence of satisfactory completion of the National Board of Dental Examiners examination as required by paragraph (a). Such credentials shall be submitted in a manner provided by rule of the board. The board shall approve those credentials which comply with this paragraph and with rules of the board adopted pursuant hereto. The provisions of this paragraph notwithstanding, an applicant who cannot produce the credentials required by this paragraph as a result of political or other conditions in the country in which she or he received her or his education may seek approval by the board of her or his educational background prior to complying with the provisions of paragraph (a) by submitting such other reasonable and reliable evidence as may be set forth by rule of the board in lieu of the credentials required in this paragraph. The board shall not accept such alternative evidence until it has made a reasonable attempt to obtain the credentials required by this paragraph from the educational institutions the applicant is alleged to have attended, unless the board is otherwise satisfied that such credentials cannot be obtained.

(c) Satisfies one of the following:

1. Completes a program of study, as defined by the board by rule, at an accredited American dental school and demonstrates receipt of a D.D.S. or D.M.D. from said school;
2. Completes a 2-year supplemental dental education program at an accredited dental school and receives a dental diploma, degree, or certificate as evidence of program completion; or
3. Exhibits manual skills on a laboratory model pursuant to rules of the board. The board may charge a reasonable fee, not to exceed \$250, to cover the costs of administering the exhibition of competency in manual skills. If the applicant fails to exhibit competent clinical skills in two attempts, she or he shall not be entitled to take the examinations authorized in subsection (4). Effective December 31, 1991, no applicant may fulfill the requirements of this paragraph by taking the laboratory model exam. On or after said date, applicants must complete the educational requirements set forth in subparagraph 1. or subparagraph 2.

The provisions of paragraph (a) and subparagraph (c)3. notwithstanding, an applicant who is a graduate of a dental college or school not accredited in accordance with paragraph (2)(b) and who has failed to pass part I or part II of the national board examination in two attempts may take the laboratory model exam required in subparagraph (c)3. if the board finds that the applicant ~~he~~ has taken remedial training in the subject areas in which she or he tested below standard on said national board examination and that the applicant ~~he~~ has subsequently passed that part of such exam which she or

he had previously failed, provided that no applicant shall be entitled to this exception who fails either part of the national board examination a total of three times. Further, an applicant who has failed to pass the laboratory model exam required in subparagraph (c)3. in two attempts may be allowed by the board to make a third and final attempt if the board finds that the applicant ~~he~~ has taken remedial training in clinical subjects in which she ~~or he~~ tested below standard. Upon passing said laboratory model exam, the applicant may take the licensure examinations required in subsection (4). Further, the educational requirements found in subparagraph (b)1. do not apply to persons who began dental education prior to October 1, 1983, and such persons shall be governed by the educational requirements in existence on September 30, 1983.

(4) To be licensed as a dentist in this state, an applicant must successfully complete the following:

(b)1. A practical or clinical examination, which shall be administered and graded by dentists licensed in this state and employed by the department for just such purpose. The practical examination shall include:

a. Two restorations, and the board by rule shall determine the class of such restorations and whether they shall be performed on mannequins, live patients, or both. At least one restoration shall be on a live patient;

b. A demonstration of periodontal skills on a live patient;

c. A demonstration of prosthetics and restorative skills in complete and partial dentures and crowns and bridges and the utilization of practical methods of evaluation, specifically including the evaluation by the candidate of completed laboratory products such as, but not limited to, crowns and inlays filled to prepared model teeth;

d. A demonstration of restorative skills on a mannequin which requires the candidate to complete procedures performed in preparation for a cast restoration; and

e. A demonstration of endodontic skills.

2. The department shall consult with the board in planning the times, places, physical facilities, training of personnel, and other arrangements concerning the administration of the examination. The board or a duly designated committee thereof shall approve the final plans for the administration of the examination.

3. If the applicant fails to pass the clinical examination in three attempts, the applicant ~~he~~ shall not be eligible for reexamination unless she ~~or he~~ completes additional educational requirements established by the board; and

(c) A diagnostic skills examination demonstrating ability to diagnose conditions within the human oral cavity and its adjacent tissues and structures from photographs, slides, radiographs, or models pursuant to rules of the board. If an applicant fails to pass the diagnostic skills examination in

three attempts, the applicant ~~he~~ shall not be eligible for reexamination unless she or he completes additional educational requirements established by the board.

The department shall require a mandatory standardization exercise for all examiners prior to each practical or clinical examination and shall retain for employment only those dentists who have substantially adhered to the standard of grading established at such exercise.

Section 252. Subsections (2) and (3) of section 466.009, Florida Statutes, are amended to read:

466.009 Reexamination.—

(2) If an applicant for a license to practice dentistry fails the practical or clinical examination because of a failing grade on just one part or procedure tested, she or he shall be required to retake only that part or procedure. However, if any such applicant fails more than one part or procedure of any such examination, she or he shall be required to retake the entire examination.

(3) If an applicant for a license to practice dental hygiene fails one portion of the practical or clinical examination, such applicant shall be required to retake only that portion if she or he reapplies within 12 months. If, however, the applicant fails the prophylaxis, she or he shall be required to retake the entire examination.

Section 253. Subsection (3) of section 466.0135, Florida Statutes, is amended to read:

466.0135 Continuing education; dentists.—

(3) In applying for license renewal, the dentist shall submit a sworn affidavit, on a form acceptable to the department, attesting that she or he has completed the continuing education required in this section in accordance with the guidelines and provisions of this section and listing the date, location, sponsor, subject matter, and hours of completed continuing education courses. The applicant shall retain in her or his records such receipts, vouchers, or certificates as may be necessary to document completion of the continuing education courses listed in accordance with this subsection. With cause, the board may request such documentation by the applicant, and the board may request such documentation from applicants selected at random without cause.

Section 254. Section 466.014, Florida Statutes, is amended to read:

466.014 Continuing education; dental hygienists.—In addition to the other requirements for relicensure for dental hygienists set out in this act, the board shall require each licensed dental hygienist to complete not less than 24 hours or more than 36 hours of continuing professional education in dental subjects, biennially, in programs prescribed or approved by the board or in equivalent programs of continuing education. Programs of continuing education approved by the board shall be programs of learning

which, in the opinion of the board, contribute directly to the dental education of the dental hygienist. The board shall adopt rules and guidelines to administer and enforce the provisions of this section. In applying for license renewal, the dental hygienist shall submit a sworn affidavit, on a form acceptable to the department, attesting that she or he has completed the continuing education required in this section in accordance with the guidelines and provisions of this section and listing the date, location, sponsor, subject matter, and hours of completed continuing education courses. The applicant shall retain in her or his records such receipts, vouchers, or certificates as may be necessary to document completion of the continuing education courses listed in accordance with this section. With cause, the board may request such documentation by the applicant, and the board may request such documentation from applicants selected at random without cause. Compliance with the continuing education requirements shall be mandatory for issuance of the renewal certificate. The board shall have the authority to excuse licensees, as a group or as individuals, from the continuing educational requirements, or any part thereof, in the event an unusual circumstance, emergency, or hardship has prevented compliance with this subsection.

Section 255. Section 466.016, Florida Statutes, is amended to read:

466.016 License to be displayed.—Every practitioner of dentistry or dental hygiene within the meaning of this chapter shall post and keep conspicuously displayed her or his license in the office wherein she or he practices, in plain sight of the practitioner's his patients. Any dentist or dental hygienist who practices at more than one location shall be required to display a copy of her or his license in each office where she or he practices.

Section 256. Subsections (1), (6), and (7) of section 466.017, Florida Statutes, are amended to read:

466.017 Prescription of drugs; anesthesia.—

(1) A dentist shall have the right to prescribe drugs or medicine, subject to limitations imposed by law; perform surgical operations within the scope of her or his practice and training; administer general or local anesthesia or sedation, subject to limitations imposed by law; and use such appliances as may be necessary to the proper practice of dentistry.

(6) A licensed dentist may utilize an X-ray machine, expose dental X-ray films, and interpret or read such films. The provisions of part IV of chapter 468 to the contrary notwithstanding, a licensed dentist may authorize or direct a dental assistant to operate such equipment and expose such films under her or his direction and supervision, pursuant to rules adopted by the board in accordance with s. 466.024 which ensure that said assistant is competent by reason of training and experience to operate said equipment in a safe and efficient manner. The board may charge a fee not to exceed \$35 to defray the cost of verifying compliance with requirements adopted pursuant to this section.

(7) The provisions of s. 465.0276 notwithstanding, a dentist need not register with the board or comply with the continuing education require-

ments of that section if the dentist confines her or his dispensing activity to the dispensing of fluorides and chlorohexidine rinse solutions; provided that the dentist complies with and is subject to all laws and rules applicable to pharmacists and pharmacies, including, but not limited to, chapters 465, 499, and 893, and all applicable federal laws and regulations, when dispensing such products.

Section 257. Subsections (1), (2), and (4) of section 466.018, Florida Statutes, are amended to read:

466.018 Dentist of record; patient records.—

(1) Each patient shall have a dentist of record. The dentist of record shall remain primarily responsible for all dental treatment on such patient regardless of whether the treatment is rendered by the dentist ~~himself~~ or by another dentist, dental hygienist, or dental assistant rendering such treatment in conjunction with, at the direction or request of, or under the supervision of such dentist of record. The dentist of record shall be identified in the record of the patient. If treatment is rendered by a dentist other than the dentist of record or by a dental hygienist or assistant, the name or initials of such person shall be placed in the record of the patient. In any disciplinary proceeding brought pursuant to this chapter or chapter 455, it shall be presumed as a matter of law that treatment was rendered by the dentist of record unless otherwise noted on the patient record pursuant to this section. The dentist of record and any other treating dentist are subject to discipline pursuant to this chapter or chapter 455 for treatment rendered the patient and performed in violation of such chapter. One of the purposes of this section is to ensure that the responsibility for each patient is assigned to one dentist in a multidentist practice of any nature and to assign primary responsibility to the dentist for treatment rendered by a dental hygienist or assistant under her or his supervision. This section shall not be construed to assign any responsibility to a dentist of record for treatment rendered pursuant to a proper referral to another dentist not in practice with the dentist of record or to prohibit a patient from voluntarily selecting a new dentist without permission of the dentist of record.

(2) If the dentist of record is not identified in the patient record as required by subsection (1), it shall be presumed as a matter of law that the dentist of record is the owner of the dental practice in which the patient was treated. Further, the dentist of record in a multidentist practice shall not change unless the subsequent treating dentist acknowledges in writing in the record that she or he is now the dentist of record for the patient. It shall be presumed as a matter of law that a new dentist of record has taken or reviewed the patient's medical history and dental records, that she or he has examined the patient, and that she or he has either developed a new treatment plan or has agreed to continue the preexisting treatment plan. However, the dentist of record shall be changed when the dentist of record leaves the practice where the treatment was being rendered and the patient elects to continue treatment in the office where treatment began.

(4) In a multidentist practice of any nature, the owner dentist shall maintain either the original or a duplicate of all patient records, including

dental charts, patient histories, examination and test results, study models, and X rays, of any patient treated by a dentist at the owner dentist's practice facility. The purpose of this requirement is to impose a duty upon the owner of a multidentist practice to maintain patient records for all patients treated at the owner's practice facility whether or not the owner was involved in the patient's treatment. This subsection does not relieve the dentist of record in a multidentist practice of the responsibility to maintain patient records. An owner dentist of a multidentist practice may be relieved of the responsibility to maintain the original or duplicate patient records for patients treated at the owner dentist's practice facility if, upon request of the patient or the patient's legal representative, she or he transfers custody of the records to another dentist, the patient, or the patient's legal representative and retains, in lieu of the records, a written statement, signed by the owner dentist, the person who received the records, and two witnesses, that lists the date, the records that were transferred, and the persons to whom the records were transferred. Further, the dentist of record may be relieved of the responsibility to maintain the original or duplicate patient records if she or he leaves the practice where the treatment was rendered, transfers custody of the records to the owner of the practice, and retains, in lieu of the records, a written statement, signed by the dentist of record, the owner of the practice, and two witnesses, that lists the date and the records that were transferred. The owner dentist shall provide reasonable access to duplicate records at cost.

Section 258. Section 466.021, Florida Statutes, is amended to read:

466.021 Employment of unlicensed persons by dentist; penalty.—Every duly licensed dentist who uses the services of any unlicensed person for the purpose of constructing, altering, repairing, or duplicating any denture, partial denture, bridge splint, or orthodontic or prosthetic appliance shall be required to furnish such unlicensed person with a written work order in such form as shall be approved by the department. This form shall be supplied to the dentist by the department at a cost not to exceed that of printing and handling. The work order blanks shall be assigned to individual dentists and are not transferable. This form shall be dated and signed by such dentist and shall include the patient's name or number with sufficient descriptive information to clearly identify the case for each separate and individual piece of work; said work order shall be made in duplicate form, the duplicate copy to be retained in a permanent file in the dentist's office for a period of 2 years, and the original to be retained in a permanent file for a period of 2 years by said unlicensed person in her or his place of business. Such permanent file of work orders to be kept by such dentist or by such unlicensed person shall be open to inspection at any reasonable time by the department or its duly constituted agent. Failure of the dentist to keep such permanent records of said work orders shall subject the dentist to suspension or revocation of her or his license to practice dentistry. Failure of such unlicensed person to have in her or his possession a work order as above defined shall be admissible evidence of a violation of this chapter and shall constitute a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Nothing in this section shall preclude a registered dental laboratory from working for another registered dental laboratory, provided that such work is performed pursuant to written authorization, in

a form to be prescribed by rule of the department, which evidences that the originating laboratory has obtained a valid work order and which sets forth the work to be performed. Furthermore, nothing in this section shall preclude a registered laboratory from providing its services to dentists licensed and practicing in another state, provided that such work is requested or otherwise authorized in written form which clearly identifies the name and address of the requesting dentist and which sets forth the work to be performed.

Section 259. Subsection (5) of section 466.024, Florida Statutes, is amended to read:

466.024 Delegation of duties; expanded functions.—

(5) Notwithstanding any other provision of law, a dentist is primarily responsible for all procedures delegated by her or him.

Section 260. Subsection (1) of section 466.025, Florida Statutes, is amended to read:

466.025 Permitting of dental interns serving at state institutions; certification of dentists practicing at government facilities; permitting of nonprofit corporations.—

(1) The department shall, upon presentation of satisfactory credentials meeting such requirements as the board may by rule prescribe, issue a permit to a graduate of an approved dental school or college who has not been licensed to practice dentistry in this state to serve as a dental intern in state-maintained and state-operated hospitals or institutes of Florida that may offer such a post or in such hospitals or institutions as shall be approved by the board; provided such hospitals or institutions maintain a recognized staff of one or more licensed dentists. Such intern shall function under the general supervision of the dental staff of such hospital. Her or his work shall be limited to the patients confined to the hospital in which she or he serves, and she or he shall serve without fee or compensation other than that received in salary or other remuneration from such hospital. The board shall have the power to revoke the permit of any such intern at any time upon the recommendation by the executive officer of the dental staff of the hospital or institution in which the intern ~~he~~ serves or for any other just cause.

Section 261. Paragraphs (b) and (c) of subsection (2) of section 466.026, Florida Statutes, are amended to read:

466.026 Prohibitions; penalties.—

(2) Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

(b) Using the name “dental hygienist” or the initials “R.D.H.” or otherwise holding herself or himself out as an actively licensed dental hygienist or implying to any patient or consumer that she or he is an actively licensed dental hygienist unless that person has an active dental hygienist’s license issued by the department pursuant to this chapter.

(c) Presenting as her or his own the license of another.

Section 262. Paragraphs (n), (o), (p), (q), (s), (x), (y), and (bb) of subsection (1), paragraph (e) of subsection (2), and subsection (5) of section 466.028, Florida Statutes, are amended to read:

466.028 Grounds for disciplinary action; action by the board.—

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

(n) Failing to make available to a patient or client, or to her or his legal representative or to the department if authorized in writing by the patient, copies of documents in the possession or under control of the licensee which relate to the patient or client.

(o) Performing professional services which have not been duly authorized by the patient or client, or her or his legal representative, except as provided in ss. 766.103 and 768.13.

(p) Prescribing, procuring, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the professional practice of the dentist. For the purposes of this paragraph, it shall be legally presumed that prescribing, procuring, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the professional practice of the dentist, without regard to her or his intent.

(q) Prescribing, procuring, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893, by a dentist to herself or himself, except those prescribed, dispensed, or administered to the dentist by another practitioner authorized to prescribe them.

(s) Being unable to practice her or his profession with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the secretary or her or his designee that probable cause exists to believe that the licensee is unable to practice dentistry or dental hygiene because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of her or his profession with reasonable skill and safety to patients.

(x) Being guilty of incompetence or negligence by failing to meet the minimum standards of performance in diagnosis and treatment when measured against generally prevailing peer performance, including, but not limited to, the undertaking of diagnosis and treatment for which the dentist is not qualified by training or experience or being guilty of dental malpractice. For purposes of this paragraph, it shall be legally presumed that a dentist is not guilty of incompetence or negligence by declining to treat an individual if, in the dentist's professional judgment, the dentist or a member of her or his clinical staff is not qualified by training and experience, or the dentist's treatment facility is not clinically satisfactory or properly equipped to treat the unique characteristics and health status of the dental patient, provided the dentist refers the patient to a qualified dentist or facility for appropriate treatment. As used in this paragraph, "dental malpractice" includes, but is not limited to, three or more claims within the previous 5-year period which resulted in indemnity being paid, or any single indemnity paid in excess of \$5,000 in a judgment or settlement, as a result of negligent conduct on the part of the dentist.

(y) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(bb) Conspiring with another licensee or with any person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(2) When the board finds any applicant or licensee guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education courses or demonstrate ~~his~~ competency through a written or practical examination or to work under the supervision of another licensee.

(5) In addition, if the department finds that an applicant has a complaint filed against her or him in another jurisdiction, the board may deny the application pending final disposition of the complaint.

Section 263. Subsection (2) of section 466.031, Florida Statutes, is amended to read:

466.031 "Dental laboratory" defined.—The term "dental laboratory" as used in this chapter:

(2) Excludes any dental laboratory technician who constructs or repairs dental prosthetic appliances in the office of a licensed dentist for such dentist only and under her or his supervision and work order.

Section 264. Subsection (1) and paragraph (a) of subsection (2) of section 467.0125, Florida Statutes, are amended to read:

467.0125 Licensure by endorsement.—

(1) The department shall issue a license by endorsement to practice midwifery to an applicant who, upon applying to the department, demonstrates to the department that she or he:

(a)1. Holds a valid certificate or diploma from a foreign institution of medicine or midwifery or from a midwifery program offered in another state, bearing the seal of the institution or otherwise authenticated, which renders the individual eligible to practice midwifery in the country or state in which it was issued, provided the requirements therefor are deemed by the department to be substantially equivalent to, or to exceed, those established under this chapter and rules adopted under this chapter, and submits therewith a certified translation of the foreign certificate or diploma; or

2. Holds a valid certificate or license to practice midwifery in another state, issued by that state, provided the requirements therefor are deemed by the department to be substantially equivalent to, or to exceed, those established under this chapter and rules adopted under this chapter.

(b) Has completed a 4-month prelicensure course conducted by an approved program and has submitted documentation to the department of successful completion. The department shall determine by rule the content of the prelicensure course.

(c) Has successfully passed the licensed midwifery examination.

(2) The department may issue a temporary certificate to practice in areas of critical need to any midwife who is qualifying for licensure by endorsement under subsection (1), with the following restrictions:

(a) The Department of Health and Rehabilitative Services shall determine the areas of critical need, and the midwife so certified shall practice only in those specific areas, under the auspices of a physician licensed pursuant to chapter 458 or chapter 459, a certified nurse midwife licensed pursuant to chapter 464, or a midwife licensed under this chapter, who has a minimum of 3 years' professional experience. Such areas shall include, but not be limited to, health ~~professional manpower~~ manpower shortage areas designated by the United States Department of Health and Human Services.

Section 265. Section 467.013, Florida Statutes, is amended to read:

467.013 Inactive status.—A licensee may request that his or her license be placed in an inactive status by making application to the department and paying a fee.

Section 266. Paragraph (g) of subsection (1) of section 467.203, Florida Statutes, is amended to read:

467.203 Disciplinary actions; penalties.—

(1) The following acts shall be grounds for disciplinary action as set forth in this section:

(g) Being unable to practice midwifery with reasonable skill and safety to patients by reason of illness; drunkenness; or use of drugs, narcotics, chemicals, or other materials or as a result of any mental or physical condition. A midwife affected under this paragraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that he or she can resume the competent practice of midwifery with reasonable skill and safety.

Section 267. Paragraph (c) of subsection (2) of section 468.1115, Florida Statutes, is amended to read:

468.1115 Exemptions.—

(2) The provisions of this part shall not apply to:

(c) A person licensed in this state under chapter 231 when engaging in the profession for which he or she is licensed, or any person under the direct supervision of the licensee when rendering services within the scope of the profession of the licensee.

Section 268. Subsection (3) of section 468.1135, Florida Statutes, is amended to read:

468.1135 Board of Speech-Language Pathology and Audiology.—

(3) No later than January 1, 1991, the Governor shall appoint two members for a term of 2 years; two members for a term of 3 years; and three members for a term of 4 years. Each of the initial speech-language pathologist and audiologist members must hold a valid certificate of registration issued pursuant to part I of chapter 468, Florida Statutes, 1989, and must have been engaged in the practice of speech-language pathology or audiology for not less than 3 years prior to his or her appointment. As the terms of the initial members expire, the Governor shall appoint successors who meet the requirements of subsection (2) for terms of 4 years. Members shall serve until their successors are appointed.

Section 269. Subsection (2) of section 468.1245, Florida Statutes, is amended to read:

468.1245 Itemized listing of prices; delivery of hearing aid; contract; guarantee; packaging; disclaimer.—

(2) Any licensee who fits and sells a hearing aid shall, at the time of delivery, provide the purchaser with a contract containing the seller's signature, the address of his or her regular place of business, and his or her license or certification number, if applicable, together with the brand, model, manufacturer or manufacturer's identification code, and serial number of the hearing aid furnished and the amount charged for the hearing aid. The contract also shall specify whether the hearing aid is new, used, or rebuilt and shall specify the length of time and other terms of the guarantee and by whom the hearing aid is guaranteed. When the client has requested an itemized list of prices, the contract shall also provide an itemization of the total purchase price, including, but not limited to, the cost of the aid, ear-mold, batteries, and other accessories, and the cost of any services. Notice

of the availability of this service shall be displayed in a conspicuous manner in the office. The receipt also shall state that any complaint concerning the hearing aid and guarantee therefor, if not reconciled with the licensee from whom the hearing aid was purchased, should be directed by the purchaser to the Agency for Health Care Administration. The address and telephone number of such office shall be stated on the contract.

Section 270. Section 468.1275, Florida Statutes, is amended to read:

468.1275 Place of business; display of license.—Each licensee who fits and sells a hearing aid shall declare and establish a regular place of business, at which his or her license shall be conspicuously displayed.

Section 271. Paragraph (d) of subsection (1) of section 468.1285, Florida Statutes, is amended to read:

468.1285 Prohibitions; penalties.—

(1) No person shall knowingly:

(d) Present as his or her own the license of another.

Section 272. Paragraph (b) of subsection (4) of section 468.1655, Florida Statutes, is amended to read:

468.1655 Definitions.—As used in this part:

(4) “Practice of nursing home administration” means any service requiring nursing home administration education, training, or experience and the application of such to the planning, organizing, staffing, directing, and controlling of the total management of a nursing home. A person shall be construed to practice or to offer to practice nursing home administration who:

(b) Holds himself or herself out as able to perform, or does perform, any form of nursing home administration by written or verbal claim, sign, advertisement, letterhead, or card; or in any other way represents himself or herself to be, or implies that he or she is, a nursing home administrator.

Section 273. Subsection (1) of section 468.1705, Florida Statutes, is amended to read:

468.1705 Licensure by endorsement; temporary license.—

(1) The department shall issue a license by endorsement to any applicant who, upon applying to the department and remitting a fee set by the board not to exceed \$500, demonstrates to the board that he or she:

(a) Meets one of the following requirements:

1. Holds a valid active license to practice nursing home administration in another state of the United States, provided that the current requirements for licensure in that state are substantially equivalent to, or more stringent than, current requirements in this state; or

2. Meets the qualifications for licensure in s. 468.1695; and

(b)1. Has successfully completed a national examination which is substantially equivalent to, or more stringent than, the examination given by the department;

2. Has passed an examination on the laws and rules of this state governing the administration of nursing homes; and

3. Has worked as a fully licensed nursing home administrator for 2 years within the 5-year period immediately preceding the application by endorsement.

Section 274. Paragraph (c) of subsection (1) of section 468.1745, Florida Statutes, is amended to read:

468.1745 Prohibitions; penalties.—

(1) No person shall:

(c) Present as his or her own the license of another.

Section 275. Paragraphs (k), (l), and (o) of subsection (1) of section 468.1755, Florida Statutes, are amended to read:

468.1755 Disciplinary proceedings.—

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

(k) Repeatedly acting in a manner inconsistent with the health, safety, or welfare of the patients of the facility in which he or she is the administrator.

(l) Being unable to practice nursing home administration with reasonable skill and safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals, or any other material or substance or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding of the secretary or his or her designee that probable cause exists to believe that the licensee is unable to serve as a nursing home administrator due to the reasons stated in this paragraph, the department shall have the authority to issue an order to compel the licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or serves as a nursing home administrator. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall have the opportunity, at reasonable intervals, to demonstrate that he or she can resume the competent practice of nursing home administration with reasonable skill and safety to patients.

(o) Has willfully permitted unauthorized disclosure of information relating to a patient or his or her records.

Section 276. Section 468.207, Florida Statutes, is amended to read:

468.207 License required.—No person shall practice occupational therapy or hold himself or herself out as an occupational therapist or an occupational therapy assistant or as being able to practice occupational therapy or to render occupational therapy services in the state unless he or she is licensed in accordance with the provisions of this act.

Section 277. Subsections (1) and (4) of section 468.209, Florida Statutes, are amended to read:

468.209 Requirements for licensure.—

(1) An applicant applying for a license as an occupational therapist or as an occupational therapy assistant shall file a written application, accompanied by the application for licensure fee prescribed in s. 468.221, on forms provided by the board, showing to the satisfaction of the board that she or he:

(a) Is of good moral character.

(b) Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the board, with concentration in biologic or physical science, psychology, and sociology, and with education in selected manual skills. For an occupational therapist, such a program shall be accredited by the American Medical Association in collaboration with the American Occupational Therapy Association. For an occupational therapy assistant, such a program shall be approved by the American Occupational Therapy Association.

(c) Has successfully completed a period of supervised fieldwork experience at a recognized educational institution or a training program approved by the educational institution where she or he met the academic requirements. For an occupational therapist, a minimum of 6 months of supervised fieldwork experience is required. For an occupational therapy assistant, a minimum of 2 months of supervised fieldwork experience is required.

(d) Has passed an examination conducted or adopted by the board as provided in s. 468.211.

(4) If the board determines that the applicant has not passed an examination, which examination is recognized by the board, to determine competence to practice occupational therapy and is not qualified to be licensed by endorsement, but has otherwise met all the requirements of this section and has made application for the next scheduled examination, the board may issue the applicant a temporary permit allowing her or him to practice occupational therapy under the supervision of a licensed occupational therapist until notification of the results of the examination. An individual who has passed the examination may continue to practice occupational therapy under her or his temporary permit until the next meeting of the board. An

individual who has failed the examination shall not continue to practice occupational therapy under her or his temporary permit; and such permit shall be deemed revoked upon notification to the board of the examination results and the subsequent, immediate notification by the board to the applicant of the revocation. Only one temporary permit shall be issued to an applicant, and it shall not be renewable.

Section 278. Subsections (1) and (2) of section 468.211, Florida Statutes, are amended to read:

468.211 Examination for licensure.—

(1) Any person applying for licensure shall, in addition to demonstrating his or her eligibility in accordance with the requirements of s. 468.209, make application to the board or the appropriate examining entity for examination, upon a form and in such a manner as the board or the examining entity prescribes. Such application shall be accompanied by the nonrefundable fee prescribed by s. 468.221 or by a fee established by the examining entity. A person who fails an examination may make application for reexamination accompanied by the prescribed fee; such person shall also reapply to the board for licensure in the manner prescribed in s. 468.209.

(2) Each applicant for licensure under this act shall be examined in a manner determined by the board in a written examination to test his or her knowledge of the basic and clinical sciences relating to occupational therapy and occupational therapy theory and practice, including the applicant's professional skills and judgment in the utilization of occupational therapy techniques and methods, and such other subjects as the board may deem useful to determine the applicant's fitness to practice. The board shall establish standards for acceptable performance.

Section 279. Subsections (2) and (3) of section 468.215, Florida Statutes, are amended to read:

468.215 Issuance of license.—

(2) Any person who is issued a license as an occupational therapist under the terms of this act may use the words "occupational therapist," "licensed occupational therapist," or "occupational therapist registered," or he or she may use the letters "O.T.," "L.O.T.," or "O.T.R.," in connection with his or her name or place of business to denote his or her registration hereunder.

(3) Any person who is issued a license as an occupational therapy assistant under the terms of this act may use the words "occupational therapy assistant," "licensed occupational therapy assistant," or "certified occupational therapy assistant," or he or she may use the letters, "O.T.A.," "L.O.T.A.," or "C.O.T.A.," in connection with his or her name or place of business to denote his or her registration hereunder.

Section 280. Paragraphs (p), (s), (t), and (w) of subsection (1) of section 468.217, Florida Statutes, are amended to read:

468.217 Denial of or refusal to renew license; suspension and revocation of license and other disciplinary measures.—

(l) The board may deny or refuse to renew a license, suspend or revoke a license, issue a reprimand, impose a fine, or impose probationary conditions upon a licensee, when the licensee or applicant for license has been guilty of unprofessional conduct which has endangered, or is likely to endanger, the health, welfare, or safety of the public. Such unprofessional conduct includes:

(p) Performing professional services which have not been duly authorized by the patient or client, or his or her legal representative, except as provided in s. 768.13.

(s) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

(t) Being unable to practice occupational therapy with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel an occupational therapist or occupational therapy assistant to submit to a mental or physical examination by physicians designated by the department. The failure of an occupational therapist or occupational therapy assistant to submit to such examination when so directed constitutes an admission of the allegations against him or her, upon which a default and final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond his or her control. An occupational therapist or occupational therapy assistant affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of occupational therapy with reasonable skill and safety to patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against an occupational therapist or occupational therapy assistant in any other proceeding.

(w) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

Section 281. Paragraphs (b) and (c) of subsection (1) of section 468.223, Florida Statutes, are amended to read:

468.223 Prohibitions; penalties.—

(1) A person may not:

(b) Use, in connection with his or her name or place of business, the words “occupational therapist,” “licensed occupational therapist,” “occupational therapist registered,” “occupational therapy assistant,” “licensed occupational therapy assistant,” “certified occupational therapy assistant”; the letters “O.T.,” “L.O.T.,” “O.T.R.,” “O.T.A.,” “L.O.T.A.,” or “C.O.T.A.”; or any other words, letters, abbreviations, or insignia indicating or implying

that he or she is an occupational therapist or an occupational therapy assistant or, in any way, orally or in writing, in print or by sign, directly or by implication, to represent himself or herself as an occupational therapist or an occupational therapy assistant unless the person is a holder of a valid license issued pursuant to ss. 468.201-468.225;

(c) Present as his or her own the license of another;

Section 282. Paragraphs (a) and (b) of subsection (1) of section 468.225, Florida Statutes, are amended to read:

468.225 Persons and practices not affected.—

(1) Nothing in this act shall be construed as preventing or restricting the practice, services, or activities of:

(a) Any person licensed in this state by any other law from engaging in the profession or occupation for which he or she is licensed.

(b) Any person employed as an occupational therapist or occupational therapy assistant by the United States, if such person provides occupational therapy solely under the direction or control of the organization by which he or she is employed.

Section 283. Section 468.304, Florida Statutes, is amended to read:

468.304 Certification examination; admission.—The department shall admit to examination for certification any applicant who pays to the department a nonrefundable fee not to exceed \$100 and submits satisfactory evidence, verified by oath or affirmation, that she or he:

- (1) Is at least 18 years of age at the time of application;
 - (2) Is a high school graduate or has successfully completed the requirements for a graduate equivalency diploma (GED) or its equivalent;
 - (3) Is of good moral character; and
 - (4)(a) Has successfully completed an educational program, which program may be established in a hospital licensed pursuant to chapter 395 or in an accredited postsecondary academic institution which is subject to approval by the department as maintaining a satisfactory standard; or
- (b)1. With respect to an applicant for a basic X-ray machine operator's certificate, has completed a course of study approved by the department with appropriate study material provided the applicant by the department;
 2. With respect to an applicant for a basic X-ray machine operator-podiatry certificate, has completed a course of study approved by the department, provided that such course of study shall be limited to that information necessary to perform radiographic procedures within the scope of practice of a podiatrist licensed pursuant to chapter 461;
 3. With respect only to an applicant for a general radiographer's certificate who is a basic X-ray machine operator certificateholder, has completed

an educational program or a 2-year training program that takes into account the types of procedures and level of supervision usually and customarily practiced in a hospital, which educational or training program complies with the rules of the department; or

4. With respect only to an applicant for a nuclear medicine technologist's certificate who is a general radiographer certificateholder, has completed an educational program or a 2-year training program that takes into account the types of procedures and level of supervision usually and customarily practiced in a hospital, which educational or training program complies with the rules of the department.

No application for a limited computed tomography certificate shall be accepted. All persons holding valid computed tomography certificates as of October 1, 1984, are subject to the provisions of s. 468.309.

Section 284. Subsection (3) of section 468.306, Florida Statutes, is amended to read:

468.306 Examinations.—All applicants, except those certified pursuant to s. 468.3065, shall be required to pass an examination. The department is authorized to develop or use examinations for each type of certificate.

(3) All examinations shall be written and include positioning, technique, and radiation protection. The department shall either pass or fail each applicant on the basis of his or her final grade. The examination for a basic X-ray machine operator shall include basic positioning and basic techniques directly related to the skills necessary to safely operate radiographic equipment.

Section 285. Section 468.3065, Florida Statutes, is amended to read:

468.3065 Certification by endorsement.—The department may issue a certificate by endorsement to practice radiologic technology to an applicant who, upon applying to the department and remitting a fee not to exceed \$50, demonstrates to the department that he or she holds a current certificate, license, or registration to practice radiologic technology, provided that the requirements for such certificate, license, or registration are deemed by the department to be substantially equivalent to those established under this part and rules adopted hereunder.

Section 286. Paragraph (b) of subsection (2) of section 468.307, Florida Statutes, is amended to read:

468.307 Certificate; issuance; possession; display.—

(2)

(b)1. A temporary certificate, as provided in this subsection, shall be issued only if the department finds that its issuance will not violate the purposes of this part or tend to endanger the public health and safety. Temporary certificates shall not be extended, renewed, or reissued.

2. A temporary certificate shall expire automatically 6 months after the date of issuance or when the determination is made either to issue to the applicant, or to deny him or her the issuance of, a regular certificate.

Section 287. Subsections (5) and (6) of section 468.309, Florida Statutes, are amended to read:

468.309 Certificate; duration; renewal; reversion to inactive status.—

(5) A certificateholder in good standing remains in good standing when he or she becomes a member of the Armed Forces of the United States on active duty without paying renewal fees or accruing continuing education credits as long as he or she is a member of the Armed Forces on active duty and for a period of 6 months after his discharge from active duty, if he or she is not engaged in practicing radiologic technology in the private sector for profit. The certificateholder must pay a renewal fee and complete continuing education not to exceed 12 classroom hours to renew the certificate.

(6) A certificateholder who is in good standing remains in good standing if he or she is absent from the state because of his or her spouse's active duty with the Armed Forces of the United States. The certificateholder remains in good standing without paying renewal fees or completing continuing education as long as his or her spouse is a member of the Armed Forces on active duty and for a period of 6 months after the spouse's discharge from active duty, if the certificateholder is not engaged in practicing radiologic technology in the private sector for profit. The certificateholder must pay a renewal fee and complete continuing education not to exceed 12 classroom hours to renew the certificate.

Section 288. Subsection (1) of section 468.3095, Florida Statutes, is amended to read:

468.3095 Inactive status; reactivation; automatic suspension; reinstatement.—

(1) A certificateholder may request that his or her certificate be placed in an inactive status by making application to the department and paying a fee in an amount set by the department not to exceed \$50.

Section 289. Paragraph (f) of subsection (1) of section 468.3101, Florida Statutes, is amended to read:

468.3101 Disciplinary grounds and actions.—

(1) The following acts shall be grounds for disciplinary action as set forth in this section:

(f) Being unable to practice radiologic technology with reasonable skill and safety to patients by reason of illness; drunkenness; or use of drugs, narcotics, chemicals, or other materials or as a result of any mental or physical condition. A radiologic technologist affected under this paragraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that he or she can resume the competent practice of radiologic technology with reasonable skill and safety.

Section 290. Subsection (3) of section 468.314, Florida Statutes, is amended to read:

468.314 Advisory Council on Radiation Protection; appointment; terms; powers; duties.—

(3) In order to achieve staggering of terms, within 120 days after October 1, 1984, the secretary shall appoint 15 eligible and qualified persons to be members of the council, as follows:

- (a) Five members shall be appointed for terms of 1 year;
- (b) Five members shall be appointed for terms of 2 years; and
- (c) Five members shall be appointed for terms of 3 years.

As the term of each member expires, the secretary shall appoint a ~~his~~ successor for a term of 3 years. A member shall serve until the ~~his~~ successor is appointed.

Section 291. Subsection (3) of section 468.352, Florida Statutes, is amended to read:

468.352 Definitions.—As used in this part, unless the context otherwise requires, the term:

(3) “Direct supervision” means supervision and control by a physician who is licensed pursuant to chapter 458 or chapter 459 and who assumes the legal liability for the services rendered by the personnel employed in his or her office. Except in a case of emergency, direct supervision requires the easy availability of the physician within the office, or the physical presence of the physician, for consultation and direction of the actions of the personnel who deliver respiratory care services.

Section 292. Paragraphs (a) and (c) of subsection (4) of section 468.354, Florida Statutes, are amended to read:

468.354 Advisory Council on Respiratory Care; organization; function.—

(4)(a) The council shall annually elect from among its members a chair ~~chairman~~ and vice chair ~~chairman~~.

(c) Unless otherwise provided by law, a council member shall be compensated \$50 for each day he or she attends an official meeting of the council and for each day he or she participates in any other business involving the council. A council member shall also be entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of the state shall require the prior approval of the secretary of the department.

Section 293. Section 468.36, Florida Statutes, is amended to read:

468.36 Primary place of service delivery; notice of address or change of address.—Every certificateholder or registrant shall file with the department the address of her or ~~his~~ primary place of service delivery within the

state prior to engaging in such service delivery. Prior to changing such address, she or he shall notify the department of the address of the ~~his~~ new primary place of service delivery, whether or not within the state.

Section 294. Subsection (1) of section 468.362, Florida Statutes, is amended to read:

468.362 Continuing education.—

(1) A renewal of a certificate or registration shall not be issued by the department until the certificateholder or registrant submits proof satisfactory to the board that, during the 2 years prior to her or his application for renewal, she or he has participated in no fewer than 24 hours of continuing professional respiratory care education in courses approved by the board.

Section 295. Paragraphs (n) and (x) of subsection (1) of section 468.365, Florida Statutes, are amended to read:

468.365 Disciplinary grounds and actions.—

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

(n) Accepting and performing professional responsibilities which the certificateholder or registrant knows, or has reason to know, she or he is not competent to perform.

(x) Being unable to deliver respiratory care services with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material as a result of any mental or physical condition. In enforcing this paragraph, the department shall, upon probable cause, have authority to compel a respiratory care practitioner or respiratory therapist to submit to a mental or physical examination by physicians designated by the department. The cost of examination shall be borne by the certificateholder or registrant being examined. The failure of a respiratory care practitioner or respiratory therapist to submit to such an examination when so directed constitutes an admission of the allegations against her or him, upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond her or his control. A respiratory care practitioner or respiratory therapist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent delivery of respiratory care services with reasonable skill and safety to her or his patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against a respiratory care practitioner or respiratory therapist in any other proceeding.

Section 296. Paragraph (d) of subsection (1) of section 468.366, Florida Statutes, is amended to read:

468.366 Penalties for violations.—

(1) It is a violation of law for any person, including any firm, association, or corporation, to:

(d) Use, in connection with his or her name, any designation tending to imply that he or she is a respiratory care practitioner or a respiratory therapist, duly certified or registered under the provisions of this part, unless he or she is so certified or registered.

Section 297. Subsections (4), (5), and (6) of section 468.368, Florida Statutes, are amended to read:

468.368 Exemptions.—Nothing in this part shall be construed to prohibit:

(4) The delivery of respiratory care services by any legally qualified person of this state or of any other state or territory who is employed by the United States Government or any agency thereof, while such person is in the discharge of his or her official duties.

(5) The gratuitous care of an ill person by a friend or member of the family who does not represent himself or herself as, or hold himself or herself out to be, a respiratory care practitioner or respiratory therapist.

(6) Respiratory care services provided in case of an emergency by an individual who does not represent himself or herself as, or hold himself or herself out to be, a respiratory care practitioner or respiratory therapist.

Section 298. Subsection (1) of section 468.383, Florida Statutes, is amended to read:

468.383 Exemptions.—This act does not apply to the following:

(1) Auctions conducted by the owner, or the owner's ~~his~~ attorney, of any part of the property being offered, unless the owner acquired the goods to resell.

Section 299. Subsections (2), (3), (4), (5), and (6) of section 468.385, Florida Statutes, are amended to read:

468.385 Licenses required; qualifications; examination; bond.—

(2) No person shall auction or offer to auction any property in this state unless he or she is licensed by the department or is exempt from licensure under this act.

(3) No person shall be licensed as an auctioneer or apprentice if he or she:

(a) Is under 18 years of age; or

(b) Has committed any act or offense in this state or any other jurisdiction which would constitute a basis for disciplinary action under s. 468.389.

(4) Any person seeking a license as an auctioneer shall pass a written examination prepared and administered by the department which tests his

or her general knowledge of the laws of this state relating to bulk sales, auctions, brokerage, and the provisions of this act.

(5) Each apprentice application and license shall name a licensed auctioneer who has agreed to serve as the supervisor of the apprentice. No apprentice may conduct, or contract to conduct, an auction without the express approval of his or her supervisor. The supervisor shall regularly review the apprentice's records, which are required by the board to be maintained, to determine if such records are accurate and current.

(6) No person shall be licensed as an auctioneer unless he or she:

(a) Has held an apprentice license and has served as an apprentice for 1 year or more, or has completed a course of study, consisting of not less than 80 classroom hours of instruction, that meets standards adopted by the board;

(b) Has passed an examination conducted by the department; and

(c) Is approved by the board.

Section 300. Subsection (2) of section 468.386, Florida Statutes, is amended to read:

468.386 Fees; local licensing requirements.—

(2) An auctioneer shall obtain a local occupational license, if required, in the jurisdiction in which his or her permanent business or branch office is located. However, no local government or local agency may charge any other fee for the practice of auctioneering or require any auctioneer's license in addition to the license required by this part.

Section 301. Subsection (1) of section 468.387, Florida Statutes, is amended to read:

468.387 Licensing of nonresidents; endorsement; reciprocity.—

(1) The department shall issue a license by endorsement to practice auctioneering to an applicant who, upon applying to the department and remitting the required fee, set by the board, demonstrates to the board that he or she satisfies the requirements of s. 468.385(3) and holds a valid license to practice auctioneering in another state, provided that the requirements for licensure in that state are substantially equivalent to or more stringent than those existing in this state. The endorsement and reciprocity provisions of this section shall apply to auctioneers only and not to professions or occupations regulated by other statutes.

Section 302. Paragraph (b) of subsection (3) and subsection (5) of section 468.388, Florida Statutes, are amended to read:

468.388 Conduct of an auction.—

(3) A written agreement shall not be required if:

(b) There has been no prior negotiation between the owner or the owner's ~~his~~ agent and the auctioneer or auction business involving terms or conditions pertaining to the property being offered for sale; and

(5) Each auctioneer or auction business shall prominently display his or her license, or make it otherwise available for inspection, at each auction in which he or she participates.

Section 303. Paragraph (h) of subsection (1) of section 468.389, Florida Statutes, is amended to read:

468.389 Prohibited acts; penalties.—

(1) The following acts shall be grounds for the disciplinary activities provided in subsections (2) and (3):

(h) Commingling money or property of another person with his or her own. Every auctioneer and auction business shall maintain a separate trust or escrow account in an insured bank or savings and loan association located in this state in which shall be deposited all proceeds received for another person through an auction sale.

Section 304. Subsection (4) of section 468.395, Florida Statutes, is amended to read:

468.395 Conditions of recovery; eligibility.—

(4) The court shall not issue an order for payment of a claim from the Auctioneer Recovery Fund unless the claimant has reasonably established for the court that she or he has taken proper and reasonable action to collect the amount of her or his claim from the licensed auctioneer responsible for the loss and that any recovery made has been applied to reduce the amount of the claim on the Auctioneer Recovery Fund.

Section 305. Paragraph (c) of subsection (3) of section 468.401, Florida Statutes, is amended to read:

468.401 Regulation of talent agencies; definitions.—As used in this part or any rule adopted pursuant hereto:

(3) “Compensation” means any one or more of the following:

(c) The difference between the amount of money received by any person who furnishes employees, performers, or entertainers for circus, vaudeville, theatrical, or other entertainments, exhibitions, engagements, or performances and the amount paid by him or her to such employee, performer, or entertainer.

Section 306. Paragraphs (d), (e), (f), (q), and (r) of subsection (1) of section 468.402, Florida Statutes, are amended to read:

468.402 Duties of the department; authority to issue and revoke license; adoption of rules.—

(1) The department may take any one or more of the actions specified in subsection (5) against any person who has:

(d) Made, printed, published, distributed, or caused, authorized, or knowingly permitted the making, printing, publication, or distribution of any false statement, description, or promise of such a character as to reasonably induce any person to act to his or her damage or injury, if such statement, description, or promises were purported to be performed by the talent agency and if the owner or operator then knew, or by the exercise of reasonable care and inquiry, could have known, of the falsity of the statement, description, or promise.

(e) Knowingly committed or been a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relying upon the work, representation, or conduct of the talent agency acts or has acted to his or her injury or damage.

(f) Failed or refused upon demand to disclose any information, as required by this part, within his or her knowledge, or failed or refused to produce any document, book, or record in his or her possession for inspection to the department or any authorized agent thereof acting within its jurisdiction or by authority of law.

(g) Practiced or offered to practice beyond the scope permitted by law or has accepted and performed professional responsibilities that the licensee knows or has reason to know that he or she is not competent to perform.

(r) Conspired with another licensee or with any other person to commit an act, or has committed an act, that would tend to coerce, intimidate, or preclude another licensee from advertising his or her services.

Section 307. Subsection (1), paragraph (a) of subsection (3), and subsection (5) of section 468.403, Florida Statutes, are amended to read:

468.403 License requirements.—

(1) A person may not own, operate, solicit business, or otherwise engage in or carry on the occupation of a talent agency in this state unless such person first procures a license for the talent agency from the department. However, a license is not required for a person who acts as an agent for herself or himself, a family member, or exclusively for one artist.

(3)(a) Each owner of a talent agency if other than a corporation and each operator of a talent agency shall submit to the department with the application for licensure of the agency a full set of his fingerprints and a photograph of herself or himself taken within the preceding 2 years. The department shall conduct an examination of fingerprint records and police records.

(5) The department shall investigate the owner of an applicant talent agency only to determine her or his ability to comply with this part and shall investigate the operator of an applicant talent agency to determine her or his employment experience and qualifications.

Section 308. Subsection (3) of section 468.407, Florida Statutes, is amended to read:

468.407 License; content; posting.—

(3) If a licensee desires to cancel his or her license, he or she must notify the department and forthwith return to the department the license so canceled. No license fee may be refunded upon cancellation of the license.

Section 309. Paragraph (a) of subsection (1) of section 468.408, Florida Statutes, is amended to read:

468.408 Bond required.—

(1) There shall be filed with the department for each talent agency license a bond in the form of a surety by a reputable company engaged in the bonding business and authorized to do business in this state. The bond shall be for the penal sum of \$5,000, with one or more sureties to be approved by the department, and be conditioned that the applicant conform to and not violate any of the duties, terms, conditions, provisions, or requirements of this part.

(a) If any person is aggrieved by the misconduct of any talent agency, the person may maintain an action in his or her own name upon the bond of the agency in any court having jurisdiction of the amount claimed. All such claims shall be assignable, and the assignee shall be entitled to the same remedies, upon the bond of the agency or otherwise, as the person aggrieved would have been entitled to if such claim had not been assigned. Any claim or claims so assigned may be enforced in the name of such assignee.

Section 310. Paragraph (d) of subsection (1) of section 468.531, Florida Statutes, is amended to read:

468.531 Prohibitions; penalties.—

(1) No person or entity shall:

(d) Present as his or her own or his or her entity's own the license of another;

Section 311. Section 468.543, Florida Statutes, is amended to read:

468.543 License required.—A person may not perform the duties of an operator of a water treatment plant or a domestic wastewater treatment plant unless she or he holds a current operator's license issued by the department.

Section 312. Paragraphs (a), (b), and (c) of subsection (1) of section 468.551, Florida Statutes, are amended to read:

468.551 Prohibitions; penalties.—

(1) A person may not:

(a) Perform the duties of an operator of a water treatment plant or domestic wastewater treatment plant unless she or he is licensed under ss. 468.540-468.552;

(b) Use the name or title “water treatment plant” or “domestic wastewater treatment plant operator” or any other words, letters, abbreviations, or insignia indicating or implying that she or he is an operator, or otherwise holds herself or himself out as an operator, unless the person is a holder of a valid license issued under ss. 468.540-468.552;

(c) Present as her or his own the license of another;

Section 313. Subsection (6) of section 468.723, Florida Statutes, is amended to read:

468.723 Exemptions.—Nothing in this part shall be construed as preventing or restricting:

(6) A person providing personal training instruction for exercise, aerobics, or weightlifting, if the person does not represent himself or herself as able to provide “athletic trainer” services and if any recognition or treatment of injuries is limited to the provision of first aid.

Section 314. Subsection (3) of section 470.006, Florida Statutes, is amended to read:

470.006 Licensure as an embalmer by examination; provisional license.—

(3) Any applicant who has been approved for examination as an embalmer may qualify for a provisional license to work in a licensed funeral establishment, under the direct supervision of a licensed embalmer for a limited period of 6 months as provided by rule of the board. The fee for provisional licensure shall be set by the board, but may not exceed \$125, and shall be nonrefundable and in addition to the fee required in subsection (1). This provisional license may be renewed no more than one time. An applicant may not be granted a license until she or he has completed a 1-year internship as prescribed by rule of the board.

Section 315. Paragraph (b) of subsection (1) of section 470.007, Florida Statutes, is amended to read:

470.007 Licensure as an embalmer by endorsement; registration of a temporary embalmer.—

(1) The department shall issue a license by endorsement to practice embalming to an applicant who has remitted an examination fee set by the board not to exceed \$200 and who the board certifies:

(b)1. Holds a valid license to practice embalming in another state of the United States, provided that, when the applicant secured his or her original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in this state; or

2. Meets the qualifications for licensure in s. 470.006, except that the internship requirement shall be deemed to have been satisfied by 1 year's practice as a licensed embalmer in another state, and has, within 10 years prior to the date of application, successfully completed a state, regional, or national examination in mortuary science, which, as determined by rule of the board, is substantially equivalent to or more stringent than the examination given by the department.

Section 316. Subsection (2) of section 470.009, Florida Statutes, is amended to read:

470.009 Licensure as a funeral director by examination; provisional license.—

(2) The department shall license the applicant as a funeral director if he or she passes an examination on the subjects of the theory and practice of funeral directing, public health and sanitation, and local, state, and federal laws and rules relating to the disposition of dead human bodies; however, the board by rule may adopt the use of a national examination, such as the funeral service arts examination prepared by the Conference of Funeral Service Examining Boards, in lieu of part of this examination requirement.

Section 317. Paragraph (b) of subsection (1) of section 470.011, Florida Statutes, is amended to read:

470.011 Licensure as a funeral director by endorsement; registration of a temporary funeral director.—

(1) The department shall issue a license by endorsement to practice funeral directing to an applicant who has remitted a fee set by the board not to exceed \$200 and who the board certifies:

(b)1. Holds a valid license to practice funeral directing in another state of the United States, provided that, when the applicant secured his or her original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in this state; or

2. Meets the qualifications for licensure in s. 470.009 and has, within 10 years prior to the date of application, successfully completed a state, regional, or national examination in mortuary science, which, as determined by rule of the board, is substantially equivalent to or more stringent than the examination given by the department.

Section 318. Paragraphs (f) and (o) of subsection (2) of section 470.019, Florida Statutes, are amended to read:

470.019 Disciplinary actions against direct disposers and direct disposal establishments.—

(2) The following shall be sufficient grounds for the penalties imposed under subsection (1):

(f) Paying to or receiving from any organization, agency, or person, either directly or indirectly, any commission, bonus, kickback, or rebate in any

form whatsoever for direct disposing business, by the registrant or her or his agent, assistant, or employee; however, this provision shall not prohibit the payment of commissions by a direct disposer to her or his agents registered pursuant to s. 497.439 or to registrants under this section.

(o) Soliciting by the registrant, or by her or his agent, assistant, or employee, through the use of fraud, undue influence, intimidation, overreaching, or other form of vexatious conduct.

Section 319. Subsection (2) of section 470.021, Florida Statutes, is amended to read:

470.021 Direct disposal establishment; standards and location; registration.—

(2) The practice of direct disposition must be engaged in at a fixed location. No person may open or maintain an establishment at which to engage in or hold himself or herself out as engaging in the practice of direct disposition unless such establishment is registered with the board. Any change in location of such establishment shall be reported promptly to the board as prescribed by rule of the board.

Section 320. Section 470.023, Florida Statutes, is amended to read:

470.023 Practice of direct disposition without registration.—Any person, except for a licensed funeral director, who, without registration, holds her-self or himself out as a direct disposer or engages in direct disposition commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 321. Subsection (1) of section 470.0255, Florida Statutes, is amended to read:

470.0255 Cremation; procedure required.—

(1) At the time of the arrangement for a cremation performed by any person licensed pursuant to this chapter, the person contracting for cremation services shall be required to designate his or her intentions with respect to the disposition of the cremated remains of the deceased in a signed declaration of intent which shall be provided by and retained by the funeral or direct disposal establishment. A cremation may not be performed until a legally authorized person gives written authorization for such cremation. The cremation must be performed within 48 hours after a specified time which has been agreed to in writing by the person authorizing the cremation.

Section 322. Subsection (5) of section 470.026, Florida Statutes, is amended to read:

470.026 Solicitation of goods or services.—

(5) At-need solicitation of funeral merchandise or services is prohibited. No funeral director or direct disposer or her or his agent or representative may contact the family or next of kin of a deceased person to sell services

or merchandise unless the funeral director or direct disposer or her or his agent or representative has been initially called or contacted by the family or next of kin of such person and requested to provide her or his services or merchandise.

Section 323. Subsection (3) of section 470.028, Florida Statutes, is amended to read:

470.028 Preneed sales; registration of agents.—

(3) Each licensee or registrant shall be subject to discipline if his or her agent violates any provision of this chapter applicable to such licensee or registrant.

Section 324. Paragraph (c) of subsection (1) of section 470.031, Florida Statutes, is amended to read:

470.031 Prohibitions; penalties.—

(1) No person may:

(c) Represent as his or her own the license or registration of another.

Section 325. Section 470.032, Florida Statutes, is amended to read:

470.032 Unlawful to remove or embalm body without consent of proper official when crime is suspected.—It is unlawful for a licensee or registrant to remove or embalm a dead human body when she or he has information indicating crime or violence of any sort in connection with the cause of death until permission of the medical examiner or other lawfully authorized official has first been obtained.

Section 326. Section 470.033, Florida Statutes, is amended to read:

470.033 Sale of funeral merchandise.—If a licensee or registrant offers funeral merchandise for sale as part of his or her services to a consumer, the licensee or registrant ~~he~~ shall be subject to disciplinary action as provided in this chapter if he or she:

(1) When displaying any caskets, fails to display the least expensive casket offered for sale or use in adult funerals in the same general manner as the funeral service industry member's other caskets are displayed.

(2) Makes oral, written, or visual representations, directly or indirectly, that any funeral merchandise or service is offered for sale when such is not a bona fide offer to sell said merchandise or service.

(3) Discourages a customer's purchase of any funeral merchandise or service which is advertised or offered for sale, with the purpose of encouraging the purchase of additional or more expensive merchandise or service, by disparaging its quality or appearance, except that true factual statements concerning features, design, or construction do not constitute disparagement; by misrepresenting its availability or any delay involved in obtaining it; or by suggesting directly or by implication that a customer's concern for

price or expressed interest in inexpensive funeral merchandise or services is improper, inappropriate, or indicative of diminished respect or affection for the deceased.

(4) Fails to have the price of any casket offered for sale clearly marked on or in the casket, whether the casket is displayed at the funeral establishment or at any other location, regardless of whether the licensee or registrant is in control of such location. If a licensee uses books, catalogs, brochures, or other printed display aids, the price of each casket shall be clearly marked.

Section 327. Section 470.034, Florida Statutes, is amended to read:

470.034 Disclosure of information to public.—If a licensee or registrant offers to provide services to the public, she or he shall be subject to disciplinary action as provided in this chapter if she or he:

(1) Fails to reasonably provide by telephone, upon request, accurate information regarding the retail prices of funeral merchandise and services offered for sale by that licensee or registrant.

(2) Fails to fully disclose all of her or his available services and merchandise prior to the selection of a casket. The full disclosure required shall identify what is included in the funeral or direct disposition and the prices of all services and merchandise provided by the licensee or registrant. Full disclosure shall also be made in the case of a funeral or direct disposition with regard to the use of funeral merchandise which is not to be disposed of with the body, and written permission shall be obtained from the purchaser.

(3) Makes any false or misleading statements of the legal requirement as to the conditions under which preservation of a dead human body is required or as to the necessity of a casket or outer burial container.

(4) Fails to disclose, when such disclosure is desired, the components of the prices for alternatives such as:

(a) Graveside service.

(b) Direct disposition.

(c) Body donation without any rites or ceremonies prior to the delivery of the body and prices of service if there are to be such after the residue has been removed following the use thereof.

Section 328. Paragraphs (q) and (w) of subsection (1) of section 470.036, Florida Statutes, are amended to read:

470.036 Disciplinary proceedings.—

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

(q) Paying to or receiving from any organization, agency, or person, either directly or indirectly, any commission, bonus, kickback, or rebate in any

form whatsoever for funeral directing services, embalming services, funeral establishment services, cinerator facility services, removal services, or refrigeration services, by the licensee or registrant, or her or his agent, assistant, or employee; however, this provision shall not prohibit the payment of commissions by a funeral director, funeral establishment, or cinerator facility to its preneed agents registered pursuant to chapter 497 or to licensees hereunder.

(w) Solicitation by the licensee, or her or his agent, employee, or assistant, through the use of fraud, undue influence, intimidation, overreaching, or other form of vexatious conduct.

Section 329. Subsection (2) of section 470.039, Florida Statutes, is amended to read:

470.039 Exceptions.—

(2) Nothing in this chapter may be construed to override the written instructions or wishes of the deceased as to how his or her body is to be disposed of, if such instructions are reasonably available at the time of death.

Section 330. Paragraphs (a), (h), and (i) of subsection (2) and subsection (3) of section 471.003, Florida Statutes, are amended to read:

471.003 Qualifications for practice, exemptions.—

(2) The following persons are not required to register under the provisions of ss. 471.001-471.037 as a registered engineer:

(a) Any person practicing engineering for the improvement of, or otherwise affecting, property legally owned by her or him, unless such practice involves a public utility or the public health, safety, or welfare or the safety or health of employees. This paragraph shall not be construed as authorizing the practice of engineering through an agent or employee who is not duly registered under the provisions of ss. 471.001-471.037.

(h) A registered surveyor and mapper who takes, or contracts for, professional engineering services incidental to her or his practice of surveying and mapping and who delegates such engineering services to a registered professional engineer qualified within her or his firm or contracts for such professional engineering services to be performed by others who are registered professional engineers under the provisions of ss. 471.001-471.037.

(i) Any electrical, plumbing, air-conditioning, or mechanical contractor whose practice includes the design and fabrication of electrical, plumbing, air-conditioning, or mechanical systems, respectively, which she or he installs by virtue of a license issued under chapter 489, under part I of chapter 553, or under any special act or ordinance when working on any construction project which:

1. Requires an electrical or plumbing or air-conditioning and refrigeration system with a value of \$50,000 or less; and

2.a. Requires an aggregate service capacity of 600 amperes (240 volts) or less on a residential electrical system or 800 amperes (240 volts) or less on a commercial or industrial electrical system;

b. Requires a plumbing system with fewer than 250 fixture units; or

c. Requires a heating, ventilation, and air-conditioning system not to exceed a 15-ton-per-system capacity, or if the project is designed to accommodate 100 or fewer persons.

(3) Notwithstanding the provisions of ss. 471.001-471.037 or of any other law, no registered engineer whose principal practice is civil or structural engineering, or employee or subordinate under the responsible supervision or control of the engineer, is precluded from performing architectural services which are purely incidental to her or his engineering practice, nor is any registered architect, or employee or subordinate under the responsible supervision or control of the architect, precluded from performing engineering services which are purely incidental to her or his architectural practice. However, no engineer shall practice architecture or use the designation “architect” or any term derived therefrom, and no architect shall practice engineering or use the designation “engineer” or any term derived therefrom.

Section 331. Subsection (6) of section 471.005, Florida Statutes, is amended to read:

471.005 Definitions.—As used in ss. 471.001-471.037, the term:

(6) “Engineering” includes the term “professional engineering” and means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning, and design of engineering works and systems, planning the use of land and water, teaching of the principles and methods of engineering design, engineering surveys, and the inspection of construction for the purpose of determining in general if the work is proceeding in compliance with drawings and specifications, any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property; and includes such other professional services as may be necessary to the planning, progress, and completion of any engineering services. A person who practices any branch of engineering; who, by verbal claim, sign, advertisement, letterhead, or card, or in any other way, represents himself or herself to be an engineer or, through the use of some other title, implies that he or she is an engineer or that he or she is registered under ss. 471.001-471.037; or who holds himself or herself out as able to perform, or does perform, any engineering service or work or any other service designated by the practitioner which is recognized as engineering shall be construed to practice or offer to practice engineering within the meaning and intent of ss. 471.001-471.037.

Section 332. Paragraphs (a) and (b) of subsection (1) of section 471.013, Florida Statutes, are amended to read:

471.013 Examinations; prerequisites.—

(1)(a) A person shall be entitled to take an examination for the purpose of determining whether she or he is qualified to practice in this state as an engineer if the person is of good moral character and:

1. Is a graduate from an approved engineering curriculum of 4 years or more in a school, college, or university which has been approved by the board and has a record of 4 years of active engineering experience of a character indicating competence to be in responsible charge of engineering;

2. Is a graduate of an approved engineering technology curriculum of 4 years or more in a school, college, or university within the State University System, having been enrolled or having graduated prior to July 1, 1979, and has a record of 4 years of active engineering experience of a character indicating competence to be in responsible charge of engineering; or

3. Has, in lieu of such education and experience requirements, 10 years or more of active engineering work of a character indicating that the applicant is competent to be placed in responsible charge of engineering. However, this subparagraph does not apply unless such person notifies the department before July 1, 1984, that she or he was engaged in such work on July 1, 1981.

The board shall adopt rules providing for the review and approval of schools or colleges and the courses of study in engineering in such schools and colleges. The rules shall be based on the educational requirements for engineering as defined in s. 471.005. The board may adopt rules providing for the acceptance of the approval and accreditation of schools and courses of study by a nationally accepted accreditation organization.

(b) A person shall be entitled to take an examination for the purpose of determining whether she or he is qualified to practice in this state as an engineer intern if she or he is in the final year of, or is a graduate of, an approved engineering curriculum in a school, college, or university approved by the board.

Section 333. Subsections (1), (2), and (3) of section 471.023, Florida Statutes, are amended to read:

471.023 Certification of partnerships and corporations.—

(1) The practice of, or the offer to practice, engineering by registrants through a corporation or partnership offering engineering services to the public or by a corporation or partnership offering said services to the public through registrants under ss. 471.001-471.037 as agents, employees, officers, or partners is permitted only if the firm possesses a certification issued by the department pursuant to qualification by the board, subject to the provisions of ss. 471.001-471.037. One or more of the principal officers of the corporation or one or more partners of the partnership and all personnel of

the corporation or partnership who act in its behalf as engineers in this state shall be registered as provided by ss. 471.001-471.037. All final drawings, specifications, plans, reports, or documents involving practices registered under ss. 471.001-471.037 which are prepared or approved for the use of the corporation or partnership or for public record within the state shall be dated and shall bear the signature and seal of the registrant who prepared or approved them. Nothing in this section shall be construed to mean that a certificate of registration to practice engineering shall be held by a corporation. Nothing herein prohibits corporations and partnerships from joining together to offer engineering services to the public, provided each corporation or partnership otherwise meets the requirements of this section. No corporation or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section, nor shall any individual practicing engineering be relieved of responsibility for professional services performed by reason of his or her employment or relationship with a corporation or partnership.

(2) For the purposes of this section, a certificate of authorization shall be required for a corporation, partnership, association, or person practicing under a fictitious name, offering engineering services to the public. However, when an individual is practicing engineering in his or her own given name, he or she shall not be required to register under this section.

(3) The fact that a registered engineer practices through a corporation or partnership shall not relieve the registrant from personal liability for negligence, misconduct, or wrongful acts committed by him or her. Partnerships and all partners shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, or partners while acting in a professional capacity. Any officer, agent, or employee of a corporation shall be personally liable and accountable only for negligent acts, wrongful acts, or misconduct committed by him or her or committed by any person under his or her direct supervision and control, while rendering professional services on behalf of the corporation. The personal liability of a shareholder of a corporation, in his or her capacity as shareholder, shall be no greater than that of a shareholder-employee of a corporation incorporated under chapter 607. The corporation shall be liable up to the full value of its property for any negligent acts, wrongful acts, or misconduct committed by any of its officers, agents, or employees while they are engaged on behalf of the corporation in the rendering of professional services.

Section 334. Section 471.025, Florida Statutes, is amended to read:

471.025 Seals.—

(1) The board shall prescribe, by rule, a form of seal to be used by registrants holding valid certificates of registration. Each registrant shall obtain an impression-type metal seal in the form aforesaid. All final drawings, specifications, plans, reports, or documents prepared or issued by the registrant and being filed for public record shall be signed by the registrant, dated, and stamped with said seal. Such signature, date, and seal shall be evidence of the authenticity of that to which they are affixed. It is unlawful for any person to stamp or seal any document with a seal after her or his

certificate of registration has expired or been revoked or suspended, unless reinstated or reissued.

(2) When the certificate of registration of a registrant has been revoked or suspended by the board, it shall be mandatory that the registrant surrender her or his seal to the secretary of the board within a period of 30 days after the revocation or suspension has become effective. In the event the registrant's certificate has been suspended for a period of time, her or his seal shall be returned to the registrant ~~him~~ upon expiration of the suspension period.

(3) No registrant shall affix or permit to be affixed her or his seal or name to any plan, specification, drawing, or other document which depicts work which the registrant ~~he~~ is not licensed to perform or which is beyond her or his profession or specialty therein.

Section 335. Paragraph (c) of subsection (1) of section 471.031, Florida Statutes, is amended to read:

471.031 Prohibitions; penalties.—

(1) A person may not knowingly:

(c) Present as his or her own the registration of another;

Section 336. Paragraph (j) of subsection (1) of section 471.033, Florida Statutes, is amended to read:

471.033 Disciplinary proceedings.—

(1) The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken:

(j) Affixing or permitting to be affixed his or her seal or ~~his~~ name to any final drawings, specifications, plans, reports, or documents that were not prepared by him or her or under his or her responsible supervision, direction, or control.

Section 337. Subsection (2) and paragraphs (a) and (b) of subsection (3) of section 472.003, Florida Statutes, are amended to read:

472.003 Persons not affected by ss. 472.001-472.041.—Sections 472.001-472.041 do not apply to:

(2) A registered professional engineer who takes or contracts for professional surveying and mapping services incidental to her or his practice of engineering and who delegates such surveying and mapping services to a registered professional surveyor and mapper qualified within her or his firm or contracts for such professional surveying and mapping services to be performed by others who are registered professional surveyors and mappers under the provisions of ss. 472.001-472.041.

(3) The following persons when performing construction layout from boundary, horizontal, and vertical controls that have been established by a registered professional surveyor and mapper:

(a) Contractors performing work on bridges, roads, streets, highways, or railroads, or utilities and services incidental thereto, or employees who are subordinates of such contractors provided that the employee does not hold herself or himself out for hire or engage in such contracting except as an employee;

(b) Certified or registered contractors licensed pursuant to part I of chapter 489 or employees who are subordinates of such contractors provided that the employee does not hold herself or himself out for hire or engage in contracting except as an employee; and

Section 338. Paragraphs (c) and (d) of subsection (2) and subsection (3) of section 472.013, Florida Statutes, are amended to read:

472.013 Examinations, prerequisites.—

(2) An applicant shall be entitled to take the licensure examination to practice in this state as a surveyor and mapper if the applicant is of good moral character and has satisfied one of the following requirements:

(c) The applicant has successfully completed a 32-semester-hour course of study, or its academic equivalent, in surveying and mapping or in board-approved surveying-and-mapping-related courses at an accredited college or university and has a specific experience record of 6 or more years as a subordinate to a registered surveyor and mapper, 5 years of which shall be in the active practice of surveying and mapping of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed. Work experience acquired as a part of the education requirement shall not be construed as experience in responsible charge. However, this paragraph does not apply unless such person submits satisfactory evidence to the board that he or she was engaged in such work on or before October 1, 1988. This paragraph is repealed on July 1, 1999.

(d) The applicant has successfully completed a high school education and has a specific experience record of 8 or more years as a subordinate to a surveyor and mapper, 6 years of which are in the active practice of surveying and mapping of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed. However, this paragraph does not apply unless such person submits satisfactory evidence to the board that he or she was engaged in such work on or before October 1, 1988. This paragraph is repealed on July 1, 1999.

(3) A person shall be entitled to take an examination for the purpose of determining whether he or she is qualified to practice in this state as a surveyor and mapper intern if the person is in the final year, or is a graduate, of an approved surveying and mapping curriculum in a school that has been approved by the board.

Section 339. Subsection (1) of section 472.017, Florida Statutes, is amended to read:

472.017 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application and fee, upon proof of compliance with the continuing education requirement of s. 472.018, and, if a demonstration of competency is required by law or rule, upon certification by the board that the licensee has satisfactorily demonstrated his or her competence in surveying and mapping.

Section 340. Section 472.018, Florida Statutes, is amended to read:

472.018 Continuing education.—The department may not renew a license until the licensee submits proof satisfactory to the board that during the 2 years prior to her or his application for renewal the licensee ~~he~~ has completed at least 24 hours of continuing education. Criteria and course content shall be approved by the board by rule.

Section 341. Subsections (1), (2), and (3) of section 472.021, Florida Statutes, are amended to read:

472.021 Certification of partnerships and corporations.—

(1) The practice of or the offer to practice surveying and mapping by registrants through a corporation or partnership offering surveying and mapping services to the public, or by a corporation or partnership offering said services to the public through registrants under ss. 472.001-472.041 as agents, employees, officers, or partners, is permitted subject to the provisions of ss. 472.001-472.041, provided that one or more of the principal officers of the corporation or one or more partners of the partnership and all personnel of the corporation or partnership who act in its behalf as surveyors and mappers in this state are registered as provided by ss. 472.001-472.041, and, further, provided that the corporation or partnership has been issued a certificate of authorization by the board as provided in this section. All final drawings, specifications, plans, reports, or other papers or documents involving the practice of surveying and mapping which are prepared or approved for the use of the corporation or partnership or for delivery to any person or for public record within the state must be dated and must bear the signature and seal of the registrant who prepared or approved them. Nothing in this section shall be construed to allow a corporation to hold a certificate of registration to practice surveying and mapping. No corporation or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section, nor shall any individual practicing surveying and mapping be relieved of responsibility for professional services performed by reason of his or her employment or relationship with a corporation or partnership.

(2) For the purposes of this section, a certificate of authorization shall be required for a corporation, partnership, association, or person practicing under a fictitious name, offering surveying and mapping services to the public; however, when an individual is practicing surveying and mapping in his or her own given name, he or she shall not be required to register under this section.

(3) The fact that any registered surveyor and mapper practices through a corporation or partnership shall not relieve the registrant from personal liability for negligence, misconduct, or wrongful acts committed by him or her. Corporations and stockholders who are surveyors and mappers, or partnerships, and all partners, shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, officers, or partners while acting in a professional capacity.

Section 342. Section 472.025, Florida Statutes, is amended to read:

472.025 Seals.—

(1) The board shall prescribe, by rule, a form of seal to be used by all registrants holding valid certificates of registration, whether the registrants are corporations, partnerships, or individuals. Each registrant shall obtain an impression-type metal seal in that form; and all final drawings, plans, specifications, plats, or reports prepared or issued by the registrant in accordance with minimum technical standards set by the board shall be signed by the registrant, dated, and stamped with her or his seal. This signature, date, and seal shall be evidence of the authenticity of that to which they are affixed. It is unlawful for any person to stamp or seal any document with a seal after her or his certificate of registration has expired or been revoked or suspended unless reinstated or reissued.

(2) When the certificate of registration of a registrant has been revoked or suspended by the board, the registrant shall surrender her or his seal to the secretary of the board within a period of 30 days after the revocation or suspension has become effective. In the event the registrant's certificate has been suspended for a period of time, her or his seal shall be returned to her or him upon expiration of the suspension period.

(3) No registrant shall affix or permit to be affixed her or his seal or name to any plan, specification, drawing, or other document which depicts work which the registrant he is not licensed to perform or which is beyond her or his profession or specialty therein.

Section 343. Paragraph (c) of subsection (1) of section 472.031, Florida Statutes, is amended to read:

472.031 Prohibitions; penalties.—

(1) No person shall:

(c) Present as his or her own the registration of another;

Section 344. Subsection (4) of section 472.033, Florida Statutes, is amended to read:

472.033 Disciplinary proceedings.—

(4) The department shall reissue the license of a disciplined surveyor and mapper upon certification by the board that he or she has complied with all of the terms and conditions set forth in the final order.

Section 345. Paragraph (b) of subsection (5) of section 473.302, Florida Statutes, is amended to read:

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

(5) “Practice of,” “practicing public accountancy,” or “public accounting” means:

(b) Offering to perform or performing for the public one or more types of services involving the use of accounting skills, or one or more types of management advisory or consulting services, by any person holding herself or himself or itself out as a certified public accountant or a firm of certified public accountants, including the performance of such services by a certified public accountant in the employ of a person so holding herself or himself or itself out.

However, these terms shall not include services provided by the American Institute of Certified Public Accountants or the Florida Institute of Certified Public Accountants, or any full service association of certified public accounting firms whose plans of administration have been approved by the board, to their members or services performed by these entities in reviewing the services provided to the public by members of these entities.

Section 346. Subsection (2) of section 473.303, Florida Statutes, is amended to read:

473.303 Board of Accountancy.—

(2) Notwithstanding the provisions of s. 455.225(4), the probable cause panel of the board may be composed of at least one board member who shall serve as ~~chair~~ chairman and additional board members or one past member of the board who is a licensee in good standing. The past board member shall be appointed to the panel for a maximum of 2 years by the ~~chair~~ chairman of the board with the approval of the secretary of the department.

Section 347. Paragraph (b) of subsection (3) of section 473.308, Florida Statutes, is amended to read:

473.308 Licensure.—

(3) The board shall certify as qualified for a license by endorsement an applicant who:

(b)1.

a. Holds a valid license to practice public accounting issued by another state or territory of the United States, if the criteria for issuance of such license were substantially equivalent to the licensure criteria which existed in this state at the time the license was issued; or

b. Holds a valid license to practice public accounting issued by another state or territory of the United States but the criteria for issuance of such license did not meet the requirements of sub-subparagraph a., who qualifies

to take the examination as set forth in s. 473.306, who has passed a national, regional, state, or territorial licensing examination which is substantially equivalent to the examination required by s. 473.306, and who has satisfied the experience requirements set forth in s. 473.307; and

2. Has completed continuing education courses which are equivalent to the continuing education requirements for a licensee in this state during the 2 years immediately preceding her or his application for licensure by endorsement.

Section 348. Subsection (1) of section 473.313, Florida Statutes, is amended to read:

473.313 Inactive status.—

(1) A licensee may request that her or his license be placed in an inactive status by making application to the department. The board may prescribe by rule fees for placing a license on inactive status, renewal of inactive status, and reactivation of an inactive license.

Section 349. Subsections (1) and (2) of section 473.315, Florida Statutes, are amended to read:

473.315 Independence, technical standards.—

(1) A certified public accountant shall not express an opinion on the financial statements of an enterprise unless she or he and her or his firm are independent with respect to such enterprise.

(2) A certified public accountant shall not undertake any engagement in the practice of public accounting which she or he or her or his firm cannot reasonably expect to complete with professional competence.

Section 350. Paragraph (c) of subsection (1), paragraph (b) of subsection (4), and subsection (5) of section 473.316, Florida Statutes, are amended to read:

473.316 Communications between the accountant and client privileged.—

(1) For purposes of this section:

(c) A communication between an accountant and her or his client is “confidential” if it is not intended to be disclosed to third persons other than:

1. Those to whom disclosure is in furtherance of the rendition of accounting services to the client.

2. Those reasonably necessary for the transmission of the communication.

(4) There is no accountant-client privilege under this section when:

(b) A communication is relevant to an issue of breach of duty by the accountant to her or his client or by the client to her or his accountant.

(5) Communications are not privileged from disclosure in any disciplinary investigation or proceeding conducted pursuant to this act by the department or before the board or in any judicial review of such a proceeding. In any such proceeding, a certified public accountant or public accountant, without the consent of her or his client, may testify with respect to any communication between ~~the accountant him~~ and the accountant's ~~his~~ client or be compelled, pursuant to a subpoena of the department or the board, to testify or produce records, books, or papers. Such a communication disclosed to the board and records of the board relating to the communication shall for all other purposes and proceedings be a privileged communication in all of the courts of this state.

Section 351. Section 473.318, Florida Statutes, is amended to read:

473.318 Ownership of working papers.—All statements, records, schedules, working papers, and memoranda made by a licensee or her or his employee incident to, or in the course of, professional services to a client, except the reports submitted by the licensee to the client and except for records which are part of the client's records, shall be and remain the property of the licensee in the absence of an express agreement between the licensee and the client to the contrary.

Section 352. Section 473.3205, Florida Statutes, is amended to read:

473.3205 Commissions.—A licensee who is engaged in the practice of public accounting shall not pay a commission to obtain a client, nor shall she or he accept compensation for the sale of products, other than the work product of the licensee, or for referral of products or services of others. However, this section shall not prohibit:

- (1) Payments for the purchase of an accounting practice;
- (2) Retirement payments to individuals formerly engaged in the practice of public accounting or payments to their heirs or estates; or
- (3) Payment of fees to a referring licensee for public accounting services to either the successor licensee or the client in connection with an engagement.

Section 353. Subsection (10) of section 474.202, Florida Statutes, is amended to read:

474.202 Definitions.—As used in this chapter:

(10) "Responsible supervision" or words of similar purport mean the control, direction, and regulation by a licensed doctor of veterinary medicine of the duties involving veterinary services which she or he delegates to unlicensed personnel.

Section 354. Subsections (2), (3), (4), and (6) of section 474.203, Florida Statutes, are amended to read:

474.203 Exemptions.—This chapter shall not apply to:

(2) A student in a school or college of veterinary medicine while in the performance of duties assigned by her or his instructor or when working as a preceptor under the immediate supervision of a licensee, provided that such preceptorship is required for graduation from an accredited school or college of veterinary medicine. The licensed veterinarian shall be responsible for all acts performed by a preceptor under her or his supervision.

(3) Any doctor of veterinary medicine in the employ of a state agency or the United States Government while actually engaged in the performance of her or his official duties; however, this exemption shall not apply to such person when the person ~~he~~ is not engaged in carrying out her or his official duties or is not working at the installations for which her or his services were engaged.

(4) Any person, or the person's ~~his~~ regular employee, administering to the ills or injuries of her or his own animals, including, but not limited to, castration, spaying, and dehorning of herd animals, unless title has been transferred or employment provided for the purpose of circumventing this law. This exemption shall not apply to out-of-state veterinarians practicing temporarily in the state. However, only a veterinarian may immunize or treat an animal for diseases which are communicable to humans and which are of public health significance.

(6) Any veterinary aide, nurse, laboratory technician, preceptor, or other employee of a licensed veterinarian who administers medication or who renders auxiliary or supporting assistance under the responsible supervision of such licensed practitioner, including those tasks identified by rule of the board requiring immediate supervision. However, the licensed veterinarian shall be responsible for all such acts performed by persons under her or his supervision.

Section 355. Paragraph (b) of subsection (3) and subsection (5) of section 474.207, Florida Statutes, are amended to read:

474.207 Licensure by examination.—

(3) Notwithstanding the provisions of paragraph (2)(b), an applicant shall be deemed to have met the education requirements for licensure upon submission of evidence that the applicant meets one of the following:

(b) The applicant immigrated to the United States after leaving her or his home country because of political reasons, provided such country is located in the Western Hemisphere and lacks diplomatic relations with the United States; and

1. Was a Florida resident immediately preceding her or his application for licensure;

2. Demonstrates to the board, through submission of documentation verified by the applicant's ~~his~~ respective professional association in exile, that she or he received a professional degree in veterinary medicine from a college or university located in the country from which she or he emigrated. However, the board may not require receipt transcripts from the Republic of Cuba as a condition of eligibility under this section; and

3. Lawfully practiced her or his profession for at least 3 years.

(5) An unlicensed doctor of veterinary medicine who has graduated from an approved college or school of veterinary medicine and has completed all parts of the examination for licensure is permitted, while awaiting the results of such examination for licensure or while awaiting issuance of the license, to practice under the immediate supervision of a licensed veterinarian. A person who fails any part of the examination may not continue to practice, except in the same capacity as other nonlicensed veterinary employees, until she or he passes the examination and is eligible for licensure.

Section 356. Subsection (1) of section 474.2125, Florida Statutes, is amended to read:

474.2125 Temporary license.—

(1) The board shall adopt rules providing for the issuance of a temporary license to a licensed veterinarian of another state for the purpose of enabling her or him to provide veterinary medical services in this state for the animals of a specific owner or, as may be needed in an emergency as defined in s. 252.34(2), for the animals of multiple owners, provided the applicant would qualify for licensure by endorsement under s. 474.217. No temporary license shall be valid for more than 30 days after its issuance, and no license shall cover more than the treatment of the animals of one owner except in an emergency as defined in s. 252.34(2). After the expiration of 30 days, a new license is required.

Section 357. Paragraph (c) of subsection (1) of section 474.213, Florida Statutes, is amended to read:

474.213 Prohibitions; penalties.—

(1) No person shall:

(c) Present as her or his own the license of another;

Section 358. Paragraph (h) of subsection (1) of section 474.214, Florida Statutes, is amended to read:

474.214 Disciplinary proceedings.—

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

(h) Being unable to practice veterinary medicine with reasonable skill or safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals, or any other material or substance or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding by the secretary, the secretary's ~~his~~ designee, or the probable cause panel of the board that probable cause exists to believe that the licensee is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with the department's order, the

department may file a petition for enforcement in the circuit court of the circuit in which the licensee resides or does business. The licensee shall not be named or identified by initials in any other public court records or documents and the enforcement proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall be afforded an opportunity at reasonable intervals to demonstrate that she or he can resume the competent practice for which she or he is licensed with reasonable skill and safety to patients. Neither the record of proceedings nor the orders entered by the board in any proceedings under this paragraph shall be used against a licensee in any other proceedings.

Section 359. Section 474.216, Florida Statutes, is amended to read:

474.216 License and premises permit to be displayed.—Each person to whom a license or premises permit is issued shall keep such document conspicuously displayed in her or his office, place of business, or place of employment, whether a permanent or mobile veterinary establishment or clinic, and shall, whenever required, exhibit said document to any member or authorized representative of the board.

Section 360. Subsection (1) of section 474.217, Florida Statutes, is amended to read:

474.217 Licensure by endorsement.—

(1) The department shall issue a license by endorsement to any applicant who, upon applying to the department and remitting a fee set by the board, demonstrates to the board that she or he:

(a) Has demonstrated, in a manner designated by rule of the board, knowledge of the laws and rules governing the practice of veterinary medicine in this state; and

(b)1. Either holds, and has held for the 3 years immediately preceding the application for licensure, a valid, active license to practice veterinary medicine in another state of the United States, the District of Columbia, or a territory of the United States, provided that the requirements for licensure in the issuing state, district, or territory are equivalent to or more stringent than the requirements of this chapter; or

2. Meets the qualifications of s. 474.207(2)(b) and has successfully completed a state, regional, national, or other examination which is equivalent to or more stringent than the examination given by the department and has passed the board's clinical competency examination or another clinical competency examination specified by rule of the board.

Section 361. Paragraph (c) of subsection (1) and subsection (2) of section 475.01, Florida Statutes, are amended to read:

475.01 Definitions.—

(1) As used in this part:

(c) “Broker” means a person who, for another, and for a compensation or valuable consideration directly or indirectly paid or promised, expressly or impliedly, or with an intent to collect or receive a compensation or valuable consideration therefor, appraises, auctions, sells, exchanges, buys, rents, or offers, attempts or agrees to appraise, auction, or negotiate the sale, exchange, purchase, or rental of business enterprises or business opportunities or any real property or any interest in or concerning the same, including mineral rights or leases, or who advertises or holds out to the public by any oral or printed solicitation or representation that she or he is engaged in the business of appraising, auctioning, buying, selling, exchanging, leasing, or renting business enterprises or business opportunities or real property of others or interests therein, including mineral rights, or who takes any part in the procuring of sellers, purchasers, lessors, or lessees of business enterprises or business opportunities or the real property of another, or leases, or interest therein, including mineral rights, or who directs or assists in the procuring of prospects or in the negotiation or closing of any transaction which does, or is calculated to, result in a sale, exchange, or leasing thereof, and who receives, expects, or is promised any compensation or valuable consideration, directly or indirectly therefor; and all persons who advertise rental property information or lists. A broker renders a professional service and is a professional within the meaning of s. 95.11(4)(a). Where the term “appraise” or “appraising” appears in the definition of the term “broker,” it specifically excludes those appraisal services which must be performed only by a state-licensed or state-certified appraiser, and those appraisal services which may be performed by a registered appraiser as defined in part II. The term “broker” also includes any person who is a general partner, officer, or director of a partnership or corporation which acts as a broker. The term “broker” also includes any person or entity who undertakes to list or sell one or more timeshare periods per year in one or more timeshare plans on behalf of any number of persons, except as provided in ss. 475.011 and 721.20.

(2) The terms “employ,” “employment,” “employer,” and “employee,” when used in this chapter and in rules adopted pursuant thereto to describe the relationship between a broker and a salesperson, include an independent contractor relationship when such relationship is intended by and established between a broker and a salesperson. The existence of such relationship shall not relieve either the broker or the salesperson of her or his duties, obligations, or responsibilities under this chapter.

Section 362. Subsections (1), (3), and (5) and paragraph (a) of subsection (8) of section 475.011, Florida Statutes, are amended to read:

475.011 Exemptions.—This part does not apply to:

(1) Any person acting as an attorney in fact for the purpose of the execution of contracts or conveyances only; as an attorney at law within the scope of her or his duties as such; as a certified public accountant, as defined in chapter 473, within the scope of her or his duties as such; as the personal representative, receiver, trustee, or master under, or by virtue of, an appointment by will or by order of a court of competent jurisdiction; or as trustee under a deed of trust, or under a trust agreement, the ultimate purpose and intent whereof is charitable, is philanthropic, or provides for those having a natural right to the bounty of the donor or trustor;

(3) Any employee of a public utility, a rural electric cooperative, a railroad, or a state or local governmental agency who acts within the scope of her or his employment, for which no compensation in addition to the employee's salary is paid, to buy, sell, appraise, exchange, rent, auction, or lease any real property or any interest in real property for the use of her or his employer;

(5) Any person employed for a salary as a manager of a condominium or cooperative apartment complex as a result of any activities or duties which the person ~~he~~ may have in relation to the renting of individual units within such condominium or cooperative apartment complex if rentals arranged by the person ~~him~~ are for periods no greater than 1 year;

(8)(a) An owner of one or part of one or more timeshare periods for the owner's ~~his~~ own use and occupancy who later offers one or more of such periods for resale.

Section 363. Subsection (1) of section 475.03, Florida Statutes, is amended to read:

475.03 Delegation of powers and duties; legal services.—

(1) Any of the duties and powers of the commission, except disciplinary powers and the power to adopt rules, may be delegated, by resolution, to any member; but the chair ~~chairman~~ may exercise such duties and powers without such resolution.

Section 364. Section 475.10, Florida Statutes, is amended to read:

475.10 Seal.—The commission shall adopt a seal by which it shall authenticate its proceedings. Copies of the proceedings, records, and acts of the commission, and certificates purporting to relate the facts concerning such proceedings, records, and acts, signed by the chair ~~chairman~~, the custodian of such records, or another person authorized to make such certification and authenticated by such seal, shall be prima facie evidence thereof in all the courts of this state.

Section 365. Subsections (1) and (2) and paragraph (c) of subsection (4) of section 475.17, Florida Statutes, are amended to read:

475.17 Qualifications for practice.—

(1)(a) An applicant for licensure who is a natural person must be at least 18 years of age; hold a high school diploma or its equivalent; be honest, truthful, trustworthy, and of good character; and have a good reputation for fair dealing. An applicant for an active broker's license or a salesperson's license must be competent and qualified to make real estate transactions and conduct negotiations therefor with safety to investors and to those with whom the applicant ~~he~~ may undertake a relationship of trust and confidence. If the applicant has been denied registration or a license or has been disbarred, or the applicant's ~~his~~ registration or license to practice or conduct any regulated profession, business, or vocation has been revoked or suspended, by this or any other state, any nation, or any possession or district

of the United States, or any court or lawful agency thereof, because of any conduct or practices which would have warranted a like result under this chapter, or if the applicant has been guilty of conduct or practices in this state or elsewhere which would have been grounds for revoking or suspending her or his license under this chapter had the applicant then been registered, the applicant shall be deemed not to be qualified unless, because of lapse of time and subsequent good conduct and reputation, or other reason deemed sufficient, it appears to the commission that the interest of the public and investors will not likely be endangered by the granting of registration.

(b) An application may be disapproved if the applicant has acted or attempted to act, or has held herself or himself out as entitled to act, during the period of 1 year next prior to the filing of the application, as a real estate broker or salesperson in the state in violation of this chapter. This paragraph may be deemed to bar any person from licensure who has performed any of the acts or services described in s. 475.01(3), unless exempt pursuant to s. 475.011, during a period of 1 year next preceding the filing of the application, or during the pendency of the application, and until a valid current license has been duly issued to the person ~~him~~, regardless of whether the performance of the act or service was done for compensation or valuable consideration.

(2)(a) In addition to other requirements under this part, the commission may require the satisfactory completion of one or more of the educational courses or equivalent courses conducted, offered, sponsored, prescribed, or approved pursuant to s. 475.04, taken at an accredited college, university, or community college, at an area technical center, or at a registered real estate school, as a condition precedent for any person to become licensed or to renew her or his license as a broker, broker-salesperson, or salesperson. The course or courses required for one to become initially licensed shall not exceed a total of 63 classroom hours of 50 minutes each, inclusive of examination, for a salesperson and 72 classroom hours of 50 minutes each, inclusive of examination, for a broker. The satisfactory completion of an examination administered by the accredited college, university, or community college, by the area technical center, or by the registered real estate school shall be the basis for determining satisfactory completion of the course. However, notice of satisfactory completion shall not be issued if the student has absences in excess of 8 classroom hours. Such required course or courses must be made available by correspondence or other suitable means to any person who, by reason of hardship, as defined by rule, cannot attend the place or places where the course is regularly conducted.

(b) A person may not be licensed as a real estate broker unless, in addition to the other requirements of law, the person ~~he~~ has held:

1. An active real estate salesperson's license for at least 12 months during the preceding 5 years in the office of one or more real estate brokers licensed in this state or any other state, territory, or jurisdiction of the United States or in any foreign national jurisdiction;

2. A current and valid real estate salesperson's license for at least 12 months during the preceding 5 years in the employ of a governmental

agency for a salary and performing the duties authorized in this part for real estate licensees; or

3. A current and valid real estate broker's license for at least 12 months during the preceding 5 years in any other state, territory, or jurisdiction of the United States or in any foreign national jurisdiction.

(4)

(c) The license of any broker who does not complete the postlicensure education requirement prior to the first renewal following initial licensure shall be considered null and void. If the licensee wishes to operate as a salesperson, she or he may be issued a salesperson's license after providing proof that she or he has satisfactorily completed the 14-hour continuing education course within the 6 months following expiration of her or his broker's license. To operate as a broker, the licensee ~~he~~ must requalify by satisfactorily completing the broker's prelicensure course and passing the state examination for licensure as a broker.

Section 366. Subsection (1) of section 475.175, Florida Statutes, is amended to read:

475.175 Examinations.—

(1) A person shall be entitled to take the license examination to practice in this state if the person ~~he~~:

(a) Submits to the department the appropriate notarized application and fee, two photographs of herself or himself taken within the preceding year, and fingerprints for processing through appropriate law enforcement agencies; and

(b) Submits at the time of examination the certificate specified in subsection (2), the examination admissions card issued by the commission, and proof of identification.

Section 367. Paragraph (a) of subsection (2) of section 475.180, Florida Statutes, is amended to read:

475.180 Nonresident licenses.—

(2)(a) Any applicant who is not a resident of this state shall file an irrevocable consent that suits and actions may be commenced against her or him in any county of this state in which a plaintiff having a cause of action or suit against her or him resides, and that service of any process or pleading in suits or actions against her or him may be made by delivering the process or pleading to the director of the Division of Real Estate by certified mail, return receipt requested, and also to the licensee by registered mail addressed to the licensee ~~him~~ at her or his designated principal place of business. Service, when so made, must be taken and held in all courts to be as valid and binding upon the licensee as if made upon her or him in this state within the jurisdiction of the court in which the suit or action is filed. The irrevocable consent must be in a form prescribed by the department and be acknowledged by a notary public.

Section 368. Subsection (1) of section 475.182, Florida Statutes, is amended to read:

475.182 Renewal of license; continuing education.—

(1) The department shall renew a license upon receipt of the renewal application and fee. The renewal application for an active license as broker, broker-salesperson, or salesperson shall include proof satisfactory to the commission that the licensee has, since the issuance or renewal of her or his current license, satisfactorily completed at least 14 classroom hours of 50 minutes each of a continuing education course during each biennium, as prescribed by the commission. The commission may accept as a substitute for such continuing education course, on a classroom-hour-for-classroom-hour basis, any satisfactorily completed education course that the commission finds is adequate to educate licensees within the intent of this section. However, the commission may not require, for the purpose of satisfactorily completing an approved correspondence course, a written examination that is to be taken at a centralized location and is to be monitored.

Section 369. Subsection (1) of section 475.183, Florida Statutes, is amended to read:

475.183 Inactive status.—

(1) A license which has become voluntarily inactive may be renewed pursuant to s. 475.182 upon application to the department. The commission shall prescribe by rule continuing education requirements, not to exceed 12 classroom hours for each year the license was inactive, as a condition of renewing a voluntarily inactive license. The commission shall substitute for such continuing education requirements, on a classroom-hour-for-classroom-hour basis, any satisfactorily completed education course approved in the manner specified in s. 475.182(1). A person whose license is voluntarily inactive and who renews the his license may elect to continue her or his voluntarily inactive status.

Section 370. Section 475.22, Florida Statutes, is amended to read:

475.22 Broker to maintain office and sign at entrance of office; registered office outside state; broker required to cooperate in investigation.—

(1) Each active broker shall maintain an office, which shall consist of at least one enclosed room in a building of stationary construction. Each active broker shall maintain a sign on or about the entrance of her or his principal office and each branch office, which sign may be easily observed and read by any person about to enter such office and shall be of such form and minimum dimensions as shall be prescribed by the commission.

(2) If a broker's registered office is located outside the State of Florida, prior to registering such office or branch office, the broker shall agree in writing to cooperate and shall cooperate with any investigation initiated in accordance with this chapter or commission rules including, but not limited to, the broker promptly supplying any documents requested by any authorized representative of the department and by personally appearing at any

designated office of the department or other location in the state or elsewhere as reasonably requested by the department. If the department sends, by certified mail to the broker at the broker's ~~his~~ last known business address as registered with the department, a notice or request to produce any documents or to appear for an interview with an authorized representative of the department and the broker fails to substantially comply with that request or notice, then such failure by the broker is a violation of the license law, subject to the penalties of s. 475.25.

Section 371. Section 475.23, Florida Statutes, is amended to read:

475.23 License to expire on change of address.—A license shall cease to be in force whenever a broker changes her or his business address, a real estate school operating under a permit issued pursuant to s. 475.451 changes its business address, or a salesperson working for a broker or an instructor working for a real estate school changes employer. The licensee shall notify the commission of the change no later than 10 days after the change, on a form provided by the commission.

Section 372. Section 475.24, Florida Statutes, is amended to read:

475.24 Branch office; fees.—Whenever any licensee desires to conduct business at some other location, either in the same or a different municipality or county than that in which she or he is licensed, such other place of business shall be registered as a branch office, and an annual registration fee prescribed by the commission, in an amount not exceeding \$50, shall be paid for each such office. It shall be necessary to maintain and register a branch office whenever, in the judgment of the commission, the business conducted at a place other than the principal office is of such a nature that the public interest requires registration of the branch office. Any office shall be deemed to be a branch office if the name or advertising of a broker having a principal office located elsewhere is displayed in such a manner as to reasonably lead the public to believe that such office is owned or operated by such broker.

Section 373. Paragraphs (b), (d), (i), (j), (k), and (o) of subsection (1) of section 475.25, Florida Statutes, are amended to read:

475.25 Discipline.—

(1) The commission may deny an application for licensure, registration, or permit, or renewal thereof; may place a licensee, registrant, or permittee on probation; may suspend a license, registration, or permit for a period not exceeding 10 years; may revoke a license, registration, or permit; may impose an administrative fine not to exceed \$1,000 for each count or separate offense; and may issue a reprimand, and any or all of the foregoing, if it finds that the licensee, registrant, permittee, or applicant:

(b) Has been guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme, or device, culpable negligence, or breach of trust in any business transaction in this state or any other state, nation, or territory; has violated a duty imposed upon her or him by law or by the terms of a listing contract, written, oral, express, or implied,

in a real estate transaction; has aided, assisted, or conspired with any other person engaged in any such misconduct and in furtherance thereof; or has formed an intent, design, or scheme to engage in any such misconduct and committed an overt act in furtherance of such intent, design, or scheme. It is immaterial to the guilt of the licensee that the victim or intended victim of the misconduct has sustained no damage or loss; that the damage or loss has been settled and paid after discovery of the misconduct; or that such victim or intended victim was a customer or a person in confidential relation with the licensee or was an identified member of the general public.

(d)1. Has failed to account or deliver to any person, including a licensee under this chapter, at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery, any personal property such as money, fund, deposit, check, draft, abstract of title, mortgage, conveyance, lease, or other document or thing of value, including a share of a real estate commission if a civil judgment relating to the practice of the licensee's profession has been obtained against the licensee and said judgment has not been satisfied in accordance with the terms of the judgment within a reasonable time, or any secret or illegal profit, or any divisible share or portion thereof, which has come into the licensee's ~~his~~ hands and which is not the licensee's ~~his~~ property or which the licensee ~~he~~ is not in law or equity entitled to retain under the circumstances. However, if the licensee, in good faith, entertains doubt as to what person is entitled to the accounting and delivery of the escrowed property, or if conflicting demands have been made upon the licensee ~~him~~ for the escrowed property, which property she or ~~he~~ still maintains in her or ~~his~~ escrow or trust account, the licensee shall promptly notify the commission of such doubts or conflicting demands and shall promptly:

- a. Request that the commission issue an escrow disbursement order determining who is entitled to the escrowed property;
- b. With the consent of all parties, submit the matter to arbitration;
- c. By interpleader or otherwise, seek adjudication of the matter by a court; or
- d. With the written consent of all parties, submit the matter to mediation. The department may conduct mediation or may contract with public or private entities for mediation services. However, the mediation process must be successfully completed within 90 days following the last demand or the licensee shall promptly employ one of the other escape procedures contained in this section. Payment for mediation will be as agreed to in writing by the parties. The department may adopt rules to implement this section.

If the licensee promptly employs one of the escape procedures contained herein, and if she or ~~he~~ abides by the order or judgment resulting therefrom, no administrative complaint may be filed against the licensee for failure to account for, deliver, or maintain the escrowed property.

2. Has failed to deposit money in an escrow account when the licensee is the purchaser of real estate under a contract where the contract requires

the purchaser to place deposit money in an escrow account to be applied to the purchase price if the sale is consummated.

(i) Has become temporarily incapacitated from acting as a broker or salesperson with safety to investors or those in a fiduciary relation with her or him because of drunkenness, use of drugs, or temporary mental derangement; but suspension of a license in such a case shall be only for the period of such incapacity.

(j) Has rendered an opinion that the title to any property sold is good or merchantable, except when correctly based upon a current opinion of a licensed attorney at law, or has failed to advise a prospective purchaser to consult her or his attorney on the merchantability of the title or to obtain title insurance.

(k) Has failed, if a broker, to immediately place, upon receipt, any money, fund, deposit, check, or draft entrusted to her or him by any person dealing with her or him as a broker in escrow with a title company, banking institution, credit union, or savings and loan association located and doing business in this state, or to deposit such funds in a trust or escrow account maintained by her or him with some bank, credit union, or savings and loan association located and doing business in this state, wherein the funds shall be kept until disbursement thereof is properly authorized; or has failed, if a salesperson, to immediately place with her or his registered employer any money, fund, deposit, check, or draft entrusted to her or him by any person dealing with her or him as agent of the his registered employer. The commission shall establish rules to provide for records to be maintained by the broker and the manner in which such deposits shall be made.

(o) Has been found guilty, for a second time, of any misconduct that warrants her or his suspension or has been found guilty of a course of conduct or practices which show that she or he is so incompetent, negligent, dishonest, or untruthful that the money, property, transactions, and rights of investors, or those with whom she or he may sustain a confidential relation, may not safely be entrusted to her or him.

Section 374. Section 475.37, Florida Statutes, is amended to read:

475.37 Effect of reversal of order of court or commission.—If the order of the court or commission denying a license or taking any disciplinary action against a licensee is finally reversed and set aside, the defendant shall be restored to her or his rights and privileges as a broker or salesperson as of the date of filing the mandate or a copy thereof with the commission. The matters and things alleged in the information shall not thereafter be reexamined in any other proceeding concerning the licensure of the defendant. If the inquiry concerned was in reference to an application for licensure, the application shall stand approved, and such application shall be remanded for further proceedings according to law.

Section 375. Paragraphs (b), (d), (e), (h), (j), (k), and (n) of subsection (1) of section 475.42, Florida Statutes, are amended to read:

475.42 Violations and penalties.—

(1) VIOLATIONS.—

(b) No person licensed as a salesperson shall operate as a broker or operate as a salesperson for any person not registered as her or his employer.

(d) No salesperson shall collect any money in connection with any real estate brokerage transaction, whether as a commission, deposit, payment, rental, or otherwise, except in the name of the employer and with the express consent of the employer; and no real estate salesperson, whether the holder of a valid and current license or not, shall commence or maintain any action for a commission or compensation in connection with a real estate brokerage transaction against any person except a person registered as her or his employer at the time the salesperson performed the act or rendered the service for which the commission or compensation is due.

(e) No person shall violate any lawful order or rule of the commission which is binding upon her or him.

(h) No person shall fail or refuse to appear at the time and place designated in a subpoena issued with respect to a violation of this chapter, unless because of facts that are sufficient to excuse appearance in response to a subpoena from the circuit court; nor shall a person who is present before the commission or a member thereof or one of its authorized representatives acting under authority of this chapter refuse to be sworn or to affirm or fail or refuse to answer fully any question propounded by the commission, the member, or such representative, or by any person by the authority of such officer or appointee; nor shall any person, so being present, conduct herself or himself in a disorderly, disrespectful, or contumacious manner.

(j) No broker or salesperson shall place, or cause to be placed, upon the public records of any county, any contract, assignment, deed, will, mortgage, affidavit, or other writing which purports to affect the title of, or encumber, any real property if the same is known to her or him to be false, void, or not authorized to be placed of record, or not executed in the form entitling it to be recorded, or the execution or recording whereof has not been authorized by the owner of the property, maliciously or for the purpose of collecting a commission, or to coerce the payment of money to the broker or salesperson or other person, or for any unlawful purpose. However, nothing in this paragraph shall be construed to prohibit a broker or a salesperson from recording a judgment rendered by a court of this state or to prohibit a broker from placing a lien on a property where expressly permitted by contractual agreement.

(k) No person shall operate as a broker under a trade name without causing the trade name to be noted in the records of the commission and placed on the person's ~~his~~ license, or so operate as a member of a partnership or as a corporation or as an officer or manager thereof, unless such partnership or corporation is the holder of a valid current registration.

(n) No broker or salesperson shall enter into any listing or other agreement regarding her or his services in connection with the resale of a timeshare period unless the broker or salesperson ~~he~~ fully and fairly discloses all material aspects of the agreement to the owner of the timeshare period and fully complies with the provisions of s. 475.452. Further, no broker or salesperson shall utilize any form of contract or purchase and sale agreement in connection with the resale of a timeshare period unless the contract or purchase and sale agreement fully and fairly discloses all material aspects of the timeshare plan and the rights and obligations of both buyer and seller. The commission is authorized to promulgate rules pursuant to chapter 120 as necessary to implement, enforce, and interpret this paragraph.

Section 376. Section 475.43, Florida Statutes, is amended to read:

475.43 Presumptions.—In all criminal cases, contempt cases, and other cases filed pursuant to this chapter, if a party has sold, leased, or let real estate, the title to which was not in the party ~~him~~ when it was offered for sale, lease, or letting, or such party has maintained an office bearing signs that real estate is for sale, lease, or rental thereat, or has advertised real estate for sale, lease, or rental, generally, or describing property, the title to which was not in such party at the time, it shall be a presumption that such party was acting or attempting to act as a real estate broker, and the burden of proof shall be upon him or her to show that he or she was not acting or attempting to act as a broker or salesperson. All contracts, options, or other devices not based upon a substantial consideration, or that are otherwise employed to permit an unlicensed person to sell, lease, or let real estate, the beneficial title to which has not, in good faith, passed to such party for a substantial consideration, are hereby declared void and ineffective in all cases, suits, or proceedings had or taken under this chapter; however, this section shall not apply to irrevocable gifts, to unconditional contracts to purchase, or to options based upon a substantial consideration actually paid and not subject to any agreements to return or right of return reserved.

Section 377. Subsections (2) and (7) of section 475.451, Florida Statutes, are amended to read:

475.451 Schools teaching real estate practice.—

(2) An applicant for a permit to operate a proprietary real estate school, to be a chief administrator of a proprietary real estate school or a state institution, or to be an instructor for a proprietary real estate school or a state institution must meet the qualifications for practice set forth in s. 475.17(1) and the following minimal requirements:

(a) “School permitholder” is defined as that individual who is responsible for directing the overall operation of a proprietary real estate school. She or ~~he~~ must be the holder of a license as a broker, either active or voluntarily inactive, or must have passed an instructor’s examination administered by the department. A school permitholder must also meet the requirements of a school instructor if she or ~~he~~ is actively engaged in teaching.

(b) “Chief administrative person” is defined as that individual who is responsible for the administration of the overall policies and practices of the institution or proprietary real estate school. She or he must also meet the requirements of a school instructor if she or he is actively engaged in teaching.

(c) “School instructor” is defined as that individual who actively instructs in the classroom.

1. Before commencing to instruct noncredit college courses in a college, university, or community college, or courses in an area technical center or proprietary real estate school, she or he must certify her or his competency by meeting one of the following requirements:

a. Hold a bachelor’s degree in a business-related subject, such as real estate, finance, accounting, business administration, or its equivalent and hold a valid broker’s license in this state.

b. Hold a bachelor’s degree, have extensive real estate experience, as defined by rule, and hold a valid broker’s license in this state.

c. Pass an instructor’s examination administered by the Division of Real Estate.

2. Any requirement by the commission for a teaching demonstration or practical examination must apply to all school instructor applicants.

3. Every second year, each instructor must recertify her or his competency by presenting to the commission evidence of her or his having successfully completed a minimum of 15 classroom hours of instruction in real estate subjects or instructional techniques, as prescribed by the commission.

The department may require an applicant to submit names of persons having knowledge concerning the applicant and the enterprise; may propound interrogatories to such persons and to the applicant concerning the character of the applicant, including the taking of fingerprints for processing through the Federal Bureau of Investigation; and shall make such investigation of the applicant ~~him~~ or the school or institution as it may deem necessary to the granting of the permit. If an objection is filed, it shall be considered in the same manner as objections or administrative complaints against other applicants for licensure by the department.

(7) Any person holding a school instructor permit on October 1, 1983, is exempt from the instructor examination requirements of paragraph (2)(c) as long as the person ~~he~~ continuously holds such a permit and complies with all other requirements of this chapter.

Section 378. Paragraph (d) of subsection (1) of section 475.483, Florida Statutes, is amended to read:

475.483 Conditions for recovery; eligibility.—

(1) Any person is eligible to seek recovery from the Real Estate Recovery Fund if:

(d)1. Such person has caused to be issued a writ of execution upon such judgment, and the person has executed an affidavit showing that no personal or real property of the judgment debtor liable to be levied upon in satisfaction of the judgment can be found or that the amount realized on the sale of the judgment debtor's property pursuant to such execution was insufficient to satisfy the judgment; or

2. If such person is unable to comply with subparagraph 1. for a valid reason to be determined by the commission, such person has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets subject to being sold or applied in satisfaction of the judgment and by her or his search the person ~~he~~ has discovered no property or assets or she or he ~~he~~ has discovered property and assets and has taken all necessary action and proceedings for the application thereof to the judgment but the amount thereby realized was insufficient to satisfy the judgment.

Section 379. Subsection (2) of section 475.484, Florida Statutes, is amended to read:

475.484 Payment from the fund.—

(2) Upon receipt by a claimant under paragraph (1)(a) of payment from the Real Estate Recovery Fund, the claimant shall assign her or his additional right, title, and interest in the judgment, to the extent of such payment, to the commission, and thereupon the commission shall be subrogated to the right, title, and interest of the claimant; and any amount subsequently recovered on the judgment by the commission, to the extent of the right, title, and interest of the commission therein, shall be for the purpose of reimbursing the Real Estate Recovery Fund.

Section 380. Subsection (2) of section 475.486, Florida Statutes, is amended to read:

475.486 Rules; violations.—

(2) It is unlawful for any person or the person's his agent to file with the commission any notice, statement, or other document required under the provisions of ss. 475.482-475.486 which is false or contains any material misstatement of fact. Any person who violates the provisions of this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 381. Section 475.5015, Florida Statutes, is amended to read:

475.5015 Brokerage business records.—Each broker shall keep and make available to the department such books, accounts, and records as will enable the department to determine whether such broker is in compliance with the provisions of this chapter. Each broker shall preserve at least one legible copy of all books, accounts, and records pertaining to her or his real estate brokerage business for at least 5 years from the date of receipt of any money, fund, deposit, check, or draft entrusted to the broker or, in the event no funds are entrusted to the broker, for at least 5 years from the date of

execution by any party of any listing agreement, offer to purchase, rental property management agreement, rental or lease agreement, or any other written or verbal agreement which engages the services of the broker. If any brokerage record has been the subject of or has served as evidence for litigation, relevant books, accounts, and records must be retained for at least 2 years after the conclusion of the civil action or the conclusion of any appellate proceeding, whichever is later, but in no case less than a total of 5 years as set above.

Section 382. Subsection (1) of section 475.5017, Florida Statutes, is amended to read:

475.5017 Injunctive relief; powers.—

(1) Appropriate civil action may be brought by the department in circuit court to enjoin a broker from engaging in, or continuing, a violation of this part or doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding such temporary or permanent injunction as may be deemed proper. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which such action is brought shall have power and jurisdiction to impound and appoint one or more receivers for the property and business of the broker, including books, papers, documents, and records pertaining thereto, or as much thereof as the court may deem reasonably necessary to prevent violations of the law or injury to the public through, or by means of, the use of such property and business. Such receiver, when so appointed and qualified, shall have such powers and duties as to custody, collection, administration, winding up, and liquidation of such property and business as is, from time to time, conferred upon her or him by the court. In any such action, the court may issue an order staying all pending civil actions and the court, in its discretion, may require that all civil actions be assigned to the circuit court judge who appointed the receiver.

Section 383. Paragraph (a) of subsection (1) of section 475.613, Florida Statutes, is amended to read:

475.613 Florida Real Estate Appraisal Board.—

(1) There is created the Florida Real Estate Appraisal Board, which shall consist of seven members appointed by the Governor, subject to confirmation by the Senate. Four members of the board must be real estate appraisers who have been engaged in the general practice of appraising real property in this state for at least 5 years immediately preceding appointment. In appointing real estate appraisers to the board, while not excluding other appraisers, the Governor shall give preference to real estate appraisers who are not primarily engaged in real estate brokerage or mortgage lending activities. One member of the board must represent organizations that use appraisals for the purpose of eminent domain proceedings, financial transactions, or mortgage insurance. Two members of the board shall be representatives of the general public and shall not be connected in any way with the practice of real estate appraisal, real estate brokerage, or mortgage lending. The appraiser members shall be as representative of the entire

industry as possible, and membership in a nationally recognized or state-recognized appraisal organization shall not be a prerequisite to membership on the board. To the extent possible, no more than two members of the board shall be primarily affiliated with any one particular national or state appraisal association. After July 1, 1992, two of the members must be licensed or certified residential real estate appraisers and two of the members must be certified general real estate appraisers at the time of their appointment.

(a) Initially, four members of the board shall be appointed for 3-year terms, and three members shall be appointed for 4-year terms. Thereafter, all members shall be appointed for 4-year terms. Any vacancy occurring in the membership of the board shall be filled by appointment by the Governor for the unexpired term. Upon expiration of his or her term, a member of the board shall continue to hold office until the appointment and qualification of the member's ~~his~~ successor. A member may not be appointed for more than two consecutive terms. The Governor may remove any member for cause.

Section 384. Subsections (4) and (5) of section 475.615, Florida Statutes, are amended to read:

475.615 Qualifications for registration, licensure, or certification.—

(4) At the time of filing a notarized application for registration, licensure, or certification, the applicant must sign a pledge to comply with the Uniform Standards of Professional Appraisal Practice upon registration, licensure, or certification, and must indicate in writing that she or he understands the types of misconduct for which disciplinary proceedings may be initiated. The application shall expire 1 year from the date received, if the applicant for registration, licensure, or certification fails to take the appropriate examination.

(5) All applicants must be competent and qualified to make real estate appraisals with safety to those with whom they may undertake a relationship of trust and confidence and the general public. If any applicant has been denied registration, licensure, or certification, or has been disbarred, or the applicant's ~~his~~ registration, license, or certificate to practice or conduct any regulated profession, business, or vocation has been revoked or suspended by this or any other state, any nation, or any possession or district of the United States, or any court or lawful agency thereof, because of any conduct or practices which would have warranted a like result under this section, or if the applicant has been guilty of conduct or practices in this state or elsewhere which would have been grounds for disciplining her or ~~his~~ registration, license, or certification under this section had the applicant then been registered, licensed, or certified, the applicant shall be deemed not to be qualified unless, because of lapse of time and subsequent good conduct and reputation, or other reason deemed sufficient, it appears to the board that the interest of the public is not likely to be endangered by the granting of registration, licensure, or certification.

Section 385. Section 475.616, Florida Statutes, is amended to read:

475.616 Examination requirements.—To be licensed or certified as an appraiser, the applicant must demonstrate, by passing a written examination, that she or he possesses:

(1) A knowledge of technical terms commonly used in real estate appraisal.

(2) An understanding of the principles of land economics, real estate appraisal processes, reliable sources of appraising data, and problems likely to be encountered in the gathering, interpreting, and processing of data in carrying out appraisal disciplines.

(3) An understanding of the standards for the development and communication of real estate appraisals as provided in this section.

(4) An understanding of the types of misconduct for which disciplinary proceedings may be initiated against a licensed or certified appraiser, as set forth in this section.

(5) Knowledge of the theories of depreciation, cost estimating, methods of capitalization, and the mathematics of real estate appraisal that are appropriate for the licensure or certification for which application is made.

Section 386. Section 475.617, Florida Statutes, is amended to read:

475.617 Education and experience requirements.—

(1) To be registered as an appraiser, an applicant must present evidence satisfactory to the board that she or he has successfully completed up to 75 hours of approved academic courses in subjects related to real estate appraisal, which shall include coverage of the Uniform Standards of Professional Appraisal Practice from a nationally recognized or state-recognized appraisal organization, area technical center, accredited community college, college, or university, state or federal agency or commission, or proprietary real estate school that holds a permit pursuant to s. 475.451. A classroom hour is defined as 50 minutes out of each 60-minute segment. Past courses may be approved on an hour-for-hour basis.

(2) To be licensed as an appraiser, an applicant must present evidence satisfactory to the board that she or he:

(a) Has 2 years of experience in real property appraisal as defined by rule.

(b) Has successfully completed at least 75 classroom hours, inclusive of examination, of approved academic courses in subjects related to real estate appraisal, which shall include coverage of the Uniform Standards of Professional Appraisal Practice from a nationally recognized or state-recognized appraisal organization, area technical center, accredited community college, college, or university, state or federal agency or commission, or proprietary real estate school that holds a permit pursuant to s. 475.451. A classroom hour is defined as 50 minutes out of each 60-minute segment. Past courses may be approved by the board and substituted on an hour-for-hour basis.

(3) To be certified as a residential appraiser, an applicant must present satisfactory evidence to the board that she or he:

(a) Has 2 years of experience in real property appraisal as defined by rule.

(b) Has successfully completed up to 165 classroom hours, inclusive of examination, of approved academic courses in subjects related to real estate appraisal, which shall include coverage of the Uniform Standards of Professional Appraisal Practice from a nationally recognized or state-recognized appraisal organization, area technical center, accredited community college, college, or university, state or federal agency or commission, or proprietary real estate school that holds a permit pursuant to s. 475.451. A classroom hour is defined as 50 minutes out of each 60-minute segment. Past courses may be approved by the board and substituted on an hour-for-hour basis.

(4) To be certified as a general appraiser, an applicant must present evidence satisfactory to the board that she or he:

(a) Has 2 years of experience in real property appraisal as defined by rule.

(b) Has successfully completed at least 165 classroom hours, inclusive of examination, of approved academic courses in subjects related to real estate appraisal, which shall include coverage of the Uniform Standards of Professional Appraisal Practice from a nationally recognized or state-recognized appraisal organization, area technical center, accredited community college, college, or university, state or federal agency or commission, or proprietary real estate school that holds a permit pursuant to s. 475.451. A classroom hour is defined as 50 minutes out of each 60-minute segment. Past courses may be approved by the board and substituted on an hour-for-hour basis.

(5) Each applicant must furnish, under oath, a detailed statement of the experience for each year of experience she or he claims. Upon request, the applicant shall furnish to the board, for its examination, copies of appraisal reports or file memoranda to support the claim for experience.

Section 387. Subsection (2) of section 475.619, Florida Statutes, is amended to read:

475.619 Inactive status.—

(2) Any registration, license, or certification which has been inactive for more than 4 years shall automatically expire. Once a registration, license, or certification expires, it becomes null and void without any further action by the board or department. Two years prior to the expiration of the registration, license, or certification, the department shall give notice by mail to the registrant, licensee, or certificateholder at her or his last known address. The board shall prescribe by rule a fee not to exceed \$100 for the late renewal of an inactive registration, license, or certification. The department shall collect the current renewal fee for each renewal period in which the registration, license, or certification was inactive, in addition to any applicable late renewal fee.

Section 388. Subsection (1) of section 475.620, Florida Statutes, is amended to read:

475.620 Corporations and partnerships ineligible for licensure or certification.—

(1) A license or certification may not be issued under this section to a corporation, partnership, firm, or group. However, an appraiser licensed or certified under this section may provide an appraisal report for or on behalf of a corporation, partnership, firm, or group, if the report is prepared by, or under the personal direction of, such appraiser and is reviewed and signed by her or him.

Section 389. Section 475.622, Florida Statutes, is amended to read:

475.622 Display and disclosure of licensure or certification.—

(1) Each appraiser registered, licensed, or certified under this section shall place her or his registration, license, or certification number adjacent to or immediately beneath the designation “state-registered real estate appraiser,” “state-licensed real estate appraiser,” “state-certified residential real estate appraiser,” or “state-certified general real estate appraiser,” or their appropriate abbreviations as defined by rule, as applicable, when such term is used in an appraisal report or in a contract or other instrument used by the appraiser in conducting real property appraisal activities. The applicable designation shall be included in any newspaper, telephone directory, or other advertising medium, as defined by rule, used by the appraiser.

(2) A registered, licensed, or certified appraiser may not sign any appraisal report or communicate same without disclosing in writing that she or he is a state-registered, state-licensed, state-certified residential, or state-certified general appraiser, as applicable, even if the appraisal performed is outside of the scope of the appraiser’s ~~his~~ registration, licensure, or certification as an appraiser.

Section 390. Section 475.623, Florida Statutes, is amended to read:

475.623 Registration of office location.—Each appraiser registered, licensed, or certified under this section shall furnish in writing to the department each business address from which she or he operates in the performance of appraisal services. Each appraiser must notify the department of any change of address within 10 days on a form provided by the department.

Section 391. Subsections (2), (6), (7), (10), and (18) of section 475.624, Florida Statutes, are amended to read:

475.624 Discipline.—The board may deny an application for registration, licensure, or certification; investigate the actions of any appraiser registered, licensed, or certified under this section; and may reprimand, fine, revoke, or suspend, for a period not to exceed 10 years, the registration, license, or certification of any such appraiser, or place any such appraiser on probation if it finds that the registrant, licensee, or certificateholder:

(2) Has been guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest conduct, culpable negligence, or breach of trust in any business transaction in this state or any other state, nation, or territory; has violated a duty imposed upon her or him by law or by the terms of a contract, whether written, oral, express, or implied, in an appraisal assignment; has aided, assisted, or conspired with any other person engaged in any such misconduct and in furtherance thereof; or has formed an intent, design, or scheme to engage in such misconduct and committed an overt act in furtherance of such intent, design, or scheme. It is immaterial to the guilt of the registrant, licensee, or certificateholder that the victim or intended victim of the misconduct has sustained no damage or loss; that the damage or loss has been settled and paid after discovery of the misconduct; or that such victim or intended victim was a customer or a person in confidential relation with the registrant, licensee, or certificateholder, or was an identified member of the general public.

(6) Has had a registration, license, or certification as an appraiser revoked, suspended, or otherwise acted against, or has been disbarred, or has had her or his registration, license, or certificate to practice or conduct any regulated profession, business, or vocation revoked or suspended by this or any other state, any nation, or any possession or district of the United States, or has had an application for such registration, licensure, or certification to practice or conduct any regulated profession, business, or vocation denied by this or any other state, any nation, or any possession or district of the United States.

(7) Has become temporarily incapacitated from acting as an appraiser with safety to those in a fiduciary relationship with her or him because of drunkenness, use of drugs, or temporary mental derangement; however, suspension of a license or certification in such cases shall only be for the period of such incapacity.

(10) Has been found guilty, for a second time, of any misconduct that warrants disciplinary action, or has been found guilty of a course of conduct or practice which shows that she or he is incompetent, negligent, dishonest, or untruthful to an extent that those with whom she or he may sustain a confidential relationship may not safely do so.

(18) Has failed to timely notify the department of any change in business location, or has failed to fully disclose all business locations from which she or he operates as a registered, licensed, or certified real estate appraiser.

Section 392. Paragraph (b) of subsection (1) of section 475.626, Florida Statutes, is amended to read:

475.626 Violations and penalties.—

(1) VIOLATIONS.—

(b) No person shall violate any lawful order or rule of the board which is binding upon her or him.

Section 393. Subsections (1) and (2) of section 475.627, Florida Statutes, are amended to read:

475.627 Appraisal course instructors.—

(1) Where the course or courses to be taught are prescribed by the board or approved precedent to registration, licensure, certification, or renewal as a registered, licensed, or certified residential appraiser, before commencing to instruct noncredit college courses in a college, university, or community college, or courses in an area technical center or proprietary real estate school, a person must certify her or his competency by meeting one of the following requirements:

(a) Hold a valid certification as a residential real estate appraiser in this or any other state.

(b) Pass an appraiser instructor's examination which shall test knowledge of residential appraisal topics.

(2) Where the course or courses to be taught are prescribed by the board or approved precedent to registration, licensure, certification, or renewal as a registered, licensed, or certified appraiser, before commencing to instruct noncredit college courses in a college, university, or community college, or courses in an area technical center or proprietary real estate school, a person must certify her or his competency by meeting one of the following requirements:

(a) Hold a valid certification as a general real estate appraiser in this or any other state.

(b) Pass an appraiser instructor's examination which shall test knowledge of residential and nonresidential appraisal topics.

Section 394. Subsections (5) and (6) of section 476.054, Florida Statutes, are amended to read:

476.054 Barbers' Board.—

(5) Each board member shall receive per diem and mileage allowances as provided in s. 112.061 from the place of her or his residence to the place of meeting and the return therefrom.

(6) Each board member shall be held accountable to the Governor for the proper performance of all duties and obligations of such board member's office. The Governor shall cause to be investigated any complaints or unfavorable reports received concerning the actions of the board or its individual members and shall take appropriate action thereon, which may include removal of any board member for malfeasance, misfeasance, neglect of duty, commission of a felony, drunkenness, incompetency, or permanent inability to perform her or his official duties.

Section 395. Subsections (1) and (3) of section 476.064, Florida Statutes, are amended to read:

476.064 Organization; headquarters; personnel; meetings.—

(1) The board shall annually elect a chair ~~chairman~~ and a vice chair ~~chairman~~ from its number. The board shall maintain its headquarters in Tallahassee.

(3) The board shall hold an annual meeting and such other meetings during the year as it may determine to be necessary. The chair ~~chairman~~ of the board may call other meetings at her or his discretion. A quorum of the board shall consist of not less than four members.

Section 396. Paragraph (c) of subsection (2) of section 476.114, Florida Statutes, is amended to read:

476.114 Examination; prerequisites.—

(2) An applicant shall be entitled to take the licensure examination to practice barbering if the applicant:

(c)1. Holds an active valid license to practice barbering in another state, has held the license for at least 1 year, and does not qualify for licensure by endorsement as provided for in s. 476.144(5); or

2. Has received a minimum of 1,200 hours of training as established by the board, which shall include, but shall not be limited to, the equivalent of completion of services directly related to the practice of barbering at one of the following:

- a. A school of barbering licensed pursuant to chapter 246;
- b. A barbering program within the public school system; or
- c. A government-operated barbering program in this state.

The board shall establish by rule procedures whereby the school or program may certify that a person is qualified to take the required examination after the completion of a minimum of 1,000 actual school hours. If the person passes the examination, she or he shall have satisfied this requirement; but if the person ~~he~~ fails the examination, she or he shall not be qualified to take the examination again until the completion of the full requirements provided by this section.

Section 397. Subsection (3) of section 476.134, Florida Statutes, is amended to read:

476.134 Time, place, and subjects of examination.—

(3) The department shall be in charge of administering all the examinations and shall control the personnel assisting in giving the examinations. The written examination shall be identifiable by number only until completion of the grading process. Each applicant shall be informed of her or his grade on the examination by the department as soon as practicable.

Section 398. Subsection (4) of section 476.144, Florida Statutes, is amended to read:

476.144 Licensure.—

(4) The department shall keep a record relating to the issuance, refusal, and renewal of licenses. Such record shall contain the name, place of business, and residence of each licensed barber and the date and number of her or his license.

Section 399. Subsection (1) of section 476.154, Florida Statutes, is amended to read:

476.154 Biennial renewal of licenses.—

(1) Each licensed barber who continues in active practice or service shall renew her or his license biennially and pay the required fee.

Section 400. Paragraphs (a) and (d) of subsection (1) of section 476.204, Florida Statutes, are amended to read:

476.204 Penalties.—

(1) It is unlawful for any person to:

(a) Hold himself or herself out as a barber unless duly licensed as provided in this chapter.

(d) Present as his or her own the license of another.

Section 401. Paragraph (g) of subsection (1) of section 477.0135, Florida Statutes, is amended to read:

477.0135 Exemptions.—

(1) This chapter does not apply to the following persons when practicing pursuant to their professional or occupational responsibilities and duties:

(g) Graduates of licensed cosmetology schools or cosmetology programs offered in public school systems, which schools or programs are certified by the Department of Education, pending the result of the first licensing examination for which such graduates are eligible following graduation, provided such graduates shall practice under the supervision of a licensed cosmetologist in a licensed cosmetology salon. A graduate who fails the examination may continue to practice under the supervision of a licensed cosmetologist in a licensed cosmetology salon if she or he applies for the next available examination and until she or he receives the results of that examination. No graduate may continue to practice under this exemption if she or he fails the examination twice.

Section 402. Subsections (3), (4), (5), (6), and (8) of section 477.015, Florida Statutes, are amended to read:

477.015 Board of Cosmetology.—

(3) The Governor may at any time fill vacancies on the board for the remainder of unexpired terms. Each member of the board shall hold over

after the expiration of his or her term until a successor is duly appointed and qualified. No board member shall serve more than two consecutive terms, whether full or partial.

(4) Before assuming his or her duties as a board member, each appointee shall take the constitutional oath of office and shall file it with the Department of State, which shall then issue to such member a certificate of his or her appointment.

(5) The board shall, in the month of January, elect from its number a chair ~~chairman~~ and a vice chair ~~chairman~~.

(6) The board shall hold such meetings during the year as it may determine to be necessary, one of which shall be the annual meeting. The chair ~~chairman~~ of the board shall have the authority to call other meetings at his or her discretion. A quorum of the board shall consist of not less than four members.

(8) Each board member shall be held accountable to the Governor for the proper performance of all his or her duties and obligations. The Governor shall investigate any complaints or unfavorable reports received concerning the actions of the board, or its members, and shall take appropriate action thereon, which action may include removal of any board member. The Governor may remove from office any board member for neglect of duty, incompetence, or unprofessional or dishonorable conduct.

Section 403. Paragraph (c) of subsection (2) of section 477.019, Florida Statutes, is amended to read:

477.019 Cosmetologists; qualifications; licensure; license renewal; endorsement.—

(2) An applicant shall be entitled to take the licensure examination to practice cosmetology if the applicant:

(c)1. Holds an active valid license to practice cosmetology in another state or country, has held the license for at least 1 year, and does not qualify for licensure by endorsement as provided for in subsection (5); or

2. Has received a minimum of 1,200 hours of training as established by the board, which shall include, but shall not be limited to, the equivalent of completion of services directly related to the practice of cosmetology at one of the following:

- a. A school of cosmetology licensed pursuant to chapter 246.
- b. A cosmetology program within the public school system.
- c. The Cosmetology Division of the Florida School for the Deaf and the Blind, provided the division meets the standards of this chapter.
- d. A government-operated cosmetology program in this state.

The board shall establish by rule procedures whereby the school or program may certify that a person is qualified to take the required examination after the completion of a minimum of 1,000 actual school hours. If the person then passes the examination, he or she shall have satisfied this requirement; but if the person he fails the examination, he or she shall not be qualified to take the examination again until the completion of the full requirements provided by this section.

Section 404. Subsections (1) and (5) of section 477.022, Florida Statutes, are amended to read:

477.022 Examinations.—

(1) The board shall specify by rule the general areas of competency to be covered by examinations for the licensing under this chapter of cosmetologists. The rules shall include the relative weight assigned in grading each area, the grading criteria to be used by the examiner, and the score necessary to achieve a passing grade. The board shall ensure that examinations adequately measure both an applicant's competency and her or his knowledge of related statutory requirements. Professional testing services may be utilized to formulate the examinations. The board may, by rule, offer a written clinical examination or a performance examination, or both, in addition to a written theory examination.

(5) All licensing examinations shall be conducted in such manner that the applicant shall be known to the department by number only until her or his examination is completed and the proper grade determined. An accurate record of each examination shall be made; and that record, together with all examination papers, shall be filed with the secretary of the department and shall be kept for reference and inspection for a period of not less than 2 years immediately following the examination.

Section 405. Paragraphs (a) and (d) of subsection (1) of section 477.029, Florida Statutes, are amended to read:

477.029 Penalty.—

(1) It is unlawful for any person to:

(a) Hold himself or herself out as a cosmetologist or specialist unless duly licensed or registered as provided in this chapter.

(d) Present as his or her own the license of another.

Section 406. Paragraph (a) of subsection (4) of section 478.44, Florida Statutes, is amended to read:

478.44 Electrolysis Council; creation; function; powers and duties.—

(4)(a) The council shall annually elect from among its members a chair ~~chairman~~ and vice chair ~~chairman~~.

Section 407. Section 478.49, Florida Statutes, is amended to read:

478.49 License required.—

(1) No person may practice electrology or hold herself or himself out as an electrologist in this state unless the person has been issued a license by the department and holds an active license pursuant to the requirements of this chapter.

(2) A licensee shall display her or his license in a conspicuous location in her or his place of practice and provide it to the department or the board upon request.

Section 408. Subsection (3) of section 478.50, Florida Statutes, is amended to read:

478.50 Renewal of license; delinquent status; address notification; continuing education requirements.—

(3) A licensee shall file with the department the address of his or her primary place of practice within the state prior to engaging in practice and shall notify the department of any change in this address prior to the change.

Section 409. Paragraphs (m), (q), and (r) of subsection (1) of section 478.52, Florida Statutes, are amended to read:

478.52 Disciplinary proceedings.—

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

(m) Accepting and performing professional responsibilities which the licensee knows, or has reason to know, she or he is not competent to perform.

(q) Practicing or attempting to practice electrology under a name other than her or his own.

(r) Being unable to practice electrology with reasonable skill and safety because of a mental or physical condition or illness, or the use of alcohol, controlled substances, or any other substance which impairs one's ability to practice.

1. The department may, upon probable cause, compel a licensee to submit to a mental or physical examination by physicians designated by the department. The cost of an examination shall be borne by the licensee, and her or his failure to submit to such an examination constitutes an admission of the allegations against her or him, consequent upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond her or his control.

2. A licensee who is disciplined under this paragraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that she or he can resume the practice of electrology with reasonable skill and safety.

3. In any proceeding under this paragraph, the record of proceedings or the orders entered by the board may not be used against a licensee in any other proceeding.

Section 410. Subsection (4) of section 479.16, Florida Statutes, is amended to read:

479.16 Signs for which permits are not required.—The following signs are exempt from the requirement that a permit for a sign be obtained under the provisions of this chapter but are required to comply with the provisions of s. 479.11(4)-(8):

(4) Official notices or advertisements posted or displayed on private property by or under the direction of any public or court officer in the performance of her or his official or directed duties, or by trustees under deeds of trust or deeds of assignment or other similar instruments.

Section 411. Subsections (3), (4), and (5) of section 480.035, Florida Statutes, are amended to read:

480.035 Board of Massage.—

(3) The Governor may at any time fill vacancies on the board for the remainder of unexpired terms. Each member of the board shall hold over after the expiration of her or his term until her or his successor has been duly appointed and qualified. No board member shall serve more than two terms, whether full or partial.

(4) The board shall, in the month of January, elect from its number a chair ~~chairman~~ and a vice chair ~~chairman~~.

(5) The board shall hold such meetings during the year as it may determine to be necessary, one of which shall be the annual meeting. The chair ~~chairman~~ of the board shall have the authority to call other meetings at her or his discretion. A quorum of the board shall consist of not less than four members.

Section 412. Subsections (1) and (5) of section 480.042, Florida Statutes, are amended to read:

480.042 Examinations.—

(1) The board shall specify by rule the general areas of competency to be covered by examinations for licensure. These rules shall include the relative weight assigned in grading each area, the grading criteria to be used by the examiner, and the score necessary to achieve a passing grade. The board shall ensure that examinations adequately measure both an applicant's competency and her or his knowledge of related statutory requirements. Professional testing services may be utilized to formulate the examinations.

(5) All licensing examinations shall be conducted in such manner that the applicant shall be known to the department by number until her or his examination is completed and the proper grade determined. An accurate record of each examination shall be made; and that record, together with all

examination papers, shall be filed with the secretary of the department and shall be kept for reference and inspection for a period of not less than 2 years immediately following the examination.

Section 413. Paragraphs (g) and (i) of subsection (1) of section 480.046, Florida Statutes, are amended to read:

480.046 Grounds for disciplinary action by the board.—

(1) The following acts shall constitute grounds for which disciplinary actions specified in subsection (2) may be taken against a massage therapist or massage establishment licensed under this act:

(g) Being unable to practice massage with reasonable skill and safety by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel a massage therapist to submit to a mental or physical examination by physicians designated by the department. Failure of a massage therapist to submit to such examination when so directed, unless the failure was due to circumstances beyond her or his control, shall constitute an admission of the allegations against her or him, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A massage therapist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of massage with reasonable skill and safety to clients.

(i) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

Section 414. Paragraphs (a), (d), and (e) of subsection (1) of section 480.047, Florida Statutes, are amended to read:

480.047 Penalties.—

(1) It is unlawful for any person to:

(a) Hold himself or herself out as a massage therapist unless duly licensed as provided herein.

(d) Present as his or her own the license of another.

(e) Allow the use of his or her license by an unlicensed person.

Section 415. Subsections (2), (3), (5), and (10) of section 481.219, Florida Statutes, are amended to read:

481.219 Certification of partnerships and corporations.—

(2) For the purposes of this section, a certificate of authorization shall be required for a corporation, partnership, or person practicing under a fictitious name, offering architectural services to the public jointly or separately.

However, when an individual is practicing architecture in her or his own name, she or he shall not be required to be certified under this section. Certification under this subsection to offer architectural services shall include all the rights and privileges of certification under subsection (3) to offer interior design services.

(3) For the purposes of this section, a certificate of authorization shall be required for a corporation, partnership, or person operating under a fictitious name, offering interior design services to the public jointly or separately. However, when an individual is practicing interior design in her or his own name, she or he shall not be required to be certified under this section.

(5) All drawings, specifications, plans, reports, or other papers or documents prepared or approved for the use of the corporation or partnership by an interior designer in her or his professional capacity and filed for public record within the state shall bear the signature and seal of the licensee who prepared or approved them and the date on which they were sealed.

(10) Each partnership and corporation certified under this section shall notify the department within 30 days of any change in the information contained in the application upon which the certification is based. Any registered architect or interior designer who qualifies the corporation or partnership as provided in subsection (7) and who terminates her or his employment with a partnership or corporation certified under this section shall notify the department of the termination within 30 days.

Section 416. Subsections (2), (3), (4), (5), (6), and (9) of section 481.221, Florida Statutes, are amended to read:

481.221 Seals; display of certificate number.—

(2) No registered architect shall affix, or permit to be affixed, her or his seal or signature to any final construction document or instrument of service which includes any plan, specification, drawing, or other document which depicts work which she or he is not competent to perform.

(3) No registered interior designer shall affix, or permit to be affixed, her or his seal or signature to any plan, specification, drawing, or other document which depicts work which she or he is not competent or licensed to perform.

(4) No registered architect shall affix her or his signature or seal to any final construction document or instrument of service which includes drawings, plans, specifications, or architectural documents which were not prepared by her or him or under her or his responsible supervising control or by another registered architect and reviewed, approved, or modified and adopted by her or him as her or his own work according to rules adopted by the board.

(5) No registered interior designer shall affix her or his signature or seal to any plans, specifications, or other documents which were not prepared by her or him or under her or his responsible supervising control or by another

registered interior designer and reviewed, approved, or modified and adopted by her or him as her or his own work according to rules adopted by the board.

(6) Final construction documents or instruments of service which include plans, drawings, specifications, or other architectural documents prepared by a registered architect as part of her or his architectural practice shall be of a sufficiently high standard to clearly and accurately indicate or illustrate all essential parts of the work to which they refer.

(9) When the certificate of registration of a registered architect or interior designer has been revoked or suspended by the board, the registered architect or interior designer shall surrender her or his seal to the secretary of the board within a period of 30 days after the revocation or suspension has become effective. If the certificate of the registered architect or interior designer has been suspended for a period of time, her or his seal shall be returned to her or him upon expiration of the suspension period.

Section 417. Paragraph (d) of subsection (1) of section 481.223, Florida Statutes, is amended to read:

481.223 Prohibitions; penalties.—

(1) A person may not knowingly:

(d) Present as his or her own the license of another;

Section 418. Subsection (4) of section 481.225, Florida Statutes, is amended to read:

481.225 Disciplinary proceedings against registered architects.—

(4) The department shall reissue the license of a disciplined registered architect upon certification by the board that he or she has complied with all of the terms and conditions set forth in the final order.

Section 419. Paragraphs (c), (j), and (l) of subsection (1) of section 481.2251, Florida Statutes, are amended to read:

481.2251 Disciplinary proceedings against registered interior designers.—

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

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the provision of interior design services or to the ability to provide interior design services. A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charges. However, the board shall allow the person being disciplined to present any evidence relevant to the underlying charges and the circumstances surrounding her or his plea;

(j) Accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent or licensed to perform;

(l) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services;

Section 420. Subsection (4) of section 481.229, Florida Statutes, is amended to read:

481.229 Exceptions; exemptions from licensure.—

(4) Notwithstanding the provisions of this part or of any other law, no registered engineer whose principal practice is civil or structural engineering, or employee or subordinate under the responsible supervision or control of the engineer, is precluded from performing architectural services which are purely incidental to his or her engineering practice, nor is any registered architect, or employee or subordinate under the responsible supervision or control of such architect, precluded from performing engineering services which are purely incidental to his or her architectural practice. However, no engineer shall practice architecture or use the designation “architect” or any term derived therefrom, and no architect shall practice engineering or use the designation “engineer” or any term derived therefrom.

Section 421. Section 481.301, Florida Statutes, is amended to read:

481.301 Purpose.—The Legislature finds that the regulation of landscape architecture is necessary to assure competent landscape planning and design of public and private environments, prevention of contamination of water supplies, barrier-free public and private spaces, conservation of natural resources through proper land and water management practices, prevention of erosion, energy conservation, functional and aesthetically pleasing environmental contributions to humanity's ~~man's~~ psychological and sociological well-being, and an enhancement of the quality of life in a safe and healthy environment and to assure the highest possible quality of the practice of landscape architecture in this state.

Section 422. Subsections (4) and (6) of section 481.319, Florida Statutes, are amended to read:

481.319 Corporate and partnership practice of landscape architecture; certificate of authorization.—

(4) Each partnership and corporation licensed under this part shall notify the department within 1 month of any change in the information contained in the application upon which the license is based. Any landscape architect who terminates his or her employment with a partnership or corporation licensed under this part shall notify the department of the termination within 1 month.

(6) The fact that registered landscape architects practice landscape architecture through a corporation or partnership as provided in this section

shall not relieve any landscape architect from personal liability for his or her professional acts.

Section 423. Subsections (1), (2), and (3) of section 481.321, Florida Statutes, are amended to read:

481.321 Seals; display of certificate number.—

(1) The board shall prescribe, by rule, a form of seal to be used by a registered landscape architect who holds a valid certificate of registration. Each registered landscape architect shall obtain an impression-type metal seal, and all plans, specifications, or reports prepared or issued by the registered landscape architect and filed for public record shall be signed by the registered landscape architect, dated, and stamped with her or his seal. The signature, date, and seal constitute evidence of the authenticity of that to which they are affixed.

(2) When the certificate of registration of a registered landscape architect has been revoked or suspended by the board, the registered landscape architect shall surrender her or his seal to the executive director of the board within 30 days after the revocation or suspension has become effective. If the certificate of the registered landscape architect is suspended for a period of time, her or his seal shall be returned to her or him upon expiration of the suspension period.

(3) No registered landscape architect shall affix or permit to be affixed her or his seal or name to any plan, specification, drawing, or other document which was not prepared by her or him or under her or his responsible supervising control or which was not reviewed, approved, or modified, and adopted by her or him as her or his own work with full responsibility as a landscape architect for such documents.

Section 424. Paragraphs (b) and (c) of subsection (1) of section 481.323, Florida Statutes, are amended to read:

481.323 Prohibitions; penalties.—

(1) A person may not knowingly:

(b) Use the name or title “landscape architect,” “landscape architecture,” “landscape architectural,” “landscape engineering,” “L.A.,” or words to that effect, or advertise any title or description tending to convey the impression that he or she is a landscape architect when he or she is not then the holder of a valid license issued pursuant to this part;

(c) Present as his or her own the license of another;

Section 425. Paragraph (l) of subsection (1) and subsection (4) of section 481.325, Florida Statutes, are amended to read:

481.325 Disciplinary proceedings.—

(1) The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken:

(l) Affixing or permitting to be affixed her or his seal or name to any plan, specification, drawing, or other document which was not prepared by her or him or under her or his responsible supervising control or which was not reviewed, approved, or modified, and adopted by her or him as her or his own work.

(4) The department shall reissue the license of a disciplined registered landscape architect upon certification by the board that she or he has complied with all of the terms and conditions set forth in the final order.

Section 426. Subsections (4), (5), (6), and (7) of section 481.329, Florida Statutes, are amended to read:

481.329 Exemptions; exemptions from licensure.—

(4) This part shall not be deemed to prohibit any person from making any plans, drawings, or specifications for any real or personal property owned by her or him so long as she or he does not use the title, term, or designation “landscape architect,” “landscape architectural,” “landscape architecture,” “L.A.,” “landscape engineering,” or any description tending to convey the impression that she or he is a landscape architect, unless she or he is registered as provided in this part or is exempt from registration under the provisions of this part.

(5) This part shall not be deemed to prohibit any nurseryman, nursery stock dealer, or agent as defined by chapter 581 who is required under chapter 581 to hold a valid license issued by the Division of Plant Industry of the Department of Agriculture and Consumer Services and who does hold a valid license to engage in the business of selling nursery stock in this state, insofar as she or he engages in the preparation of plans or drawings as an adjunct to merchandising her or his product, so long as she or he does not use the title, term, or designation “landscape architect,” “landscape architectural,” “landscape architecture,” “L.A.,” “landscape engineering,” or any description tending to convey the impression that she or he is a landscape architect unless she or he is registered as provided in this part or is exempt from registration under the provisions of this part.

(6) This part shall not be construed to affect part I of this chapter, chapter 471, or chapter 472, respectively, except that no such person shall use the designation or term “landscape architect,” “landscape architectural,” “landscape architecture,” “L.A.,” “landscape engineering,” or any description tending to convey the impression that she or he is a landscape architect, unless she or he is registered as provided in this part.

(7) Persons who perform landscape architectural services not for compensation, or in their capacity as employees of municipal or county governments, shall not be required to be licensed pursuant to this part. However, persons who are hired under the title “landscape architect” by any state, county, municipality, or other governmental unit of this state after June 30, 1988, shall be required to be licensed pursuant to this part. Nothing herein shall preclude a county or municipal employee from performing the functions of this part for her or his governmental employer under a different title.

Section 427. Subsection (9), paragraph (b) of subsection (18), and paragraph (a) of subsection (21) of section 482.021, Florida Statutes, are amended to read:

482.021 Definitions.—For the purposes of this chapter, and unless otherwise required by the context, the term:

(9) “Fumigation” means the use, within an enclosed space or in or under a structure or tarpaulins, of a fumigant in concentrations that may be hazardous to human beings ~~man~~.

(18) “Ornamental” means any shrub, bush, tree or other plant used or intended for use:

(b) By human beings ~~man~~ for purposes other than in an agricultural area.

(21) “Pesticide or economic poison” means any substance or mixture of substances intended for:

(a) Preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses or fungi on or in living human beings ~~man~~ or other animals; or

Section 428. Paragraph (c) of subsection (2) of section 482.091, Florida Statutes, is amended to read:

482.091 Employee identification cards.—

(2)

(c) An employee may not perform pest control without carrying on her or his person a current identification card affixed with the employee’s signature and current photograph.

Section 429. Subsection (5), paragraphs (a) and (b) of subsection (6), and subsection (10) of section 482.111, Florida Statutes, are amended to read:

482.111 Pest control operator’s certificate.—

(5) Each certified operator in charge at a licensed business location shall display her or his certificate and current renewal receipt at the business location in her or his charge.

(6)(a) Each location of each licensed pest control business must have a certified operator in charge who is certified for the particular category of pest control engaged in at that location. A certified operator in charge must be registered with the department pursuant to rules adopted pursuant to this section. A certified operator in charge may be in charge of one or more of all categories if she or he is certified for those categories.

(b) A person may not be in charge of the performance of pest control activities of any category of a licensee unless she or he is certified for that category.

(10) Prior to the expiration date of a certificate, the certificateholder must complete 2 hours of approved continuing education on legislation, safety, pesticide labeling, and integrated pest management and 2 hours of approved continuing education in each category of her or his certificate or must pass an examination given by the department. The department may not renew a certificate if the continuing education or examination requirement is not met.

(a) Courses or programs, to be considered for credit, must include one or more of the following topics:

1. The law and rules of this state pertaining to pest control.
2. Precautions necessary to safeguard life, health, and property in the conducting of pest control and the application of pesticides.
3. Pests, their habits, recognition of the damage they cause, and identification of them by accepted common name.
4. Current accepted industry practices in the conducting of fumigation, termites and other wood-destroying organisms pest control, lawn and ornamental pest control, and household pest control.
5. How to read labels, a review of current state and federal laws on labeling, and a review of changes in or additions to labels used in pest control.
6. Integrated pest management.

(b) The certificateholder must submit with her or his application for renewal a statement certifying that she or he has completed the required number of hours of continuing education. The statement must be on a form prescribed by the department and must identify at least the date, location, provider, and subject of the training and must provide such other information as required by the department.

(c) The department shall charge the same fee for examination as provided in s. 482.141(2).

Section 430. Subsection (1) of section 482.121, Florida Statutes, is amended to read:

482.121 Misuse of certificate.—

(1) A certified operator may not allow her or his certificate to be used by a licensee to secure or keep a license unless:

- (a) She or he is in charge of the pest control activities of the licensee in the category or categories covered by her or his certificate;
- (b) She or he is a full-time employee of the licensee; and
- (c) Her or his primary occupation is with the licensee.

Section 431. Subsection (1) of section 482.132, Florida Statutes, is amended to read:

482.132 Qualifications for examination and certification.—

(1) The department may award a pest control operator's certificate to an individual who has passed the examinations prescribed by the department and who submits to the department proof that she or he is not under the disability of minority and ~~that he~~ is qualified to be a certified operator with regard to the safety of persons and property, and is otherwise qualified under the provisions of this chapter and the rules made pursuant to this chapter.

Section 432. Subsection (4) of section 482.141, Florida Statutes, is amended to read:

482.141 Examinations.—

(4) A refund of examination fees may not be made unless the applicant presents written evidence that she or he was under military orders, on jury duty or otherwise subpoenaed, or under medical care which precluded ~~his~~ reporting to take the examination, in which case the department shall exercise its discretion as to a refund.

Section 433. Section 482.152, Florida Statutes, is amended to read:

482.152 Duties of certified operator in charge of pest control activities of licensee.—A certified operator in charge of the pest control activities of a licensee shall have her or his primary occupation with the licensee and shall be a full-time employee of the licensee, and her or his principal duty shall include the responsibility for the personal supervision of and participation in the pest control activities at the business location of the licensee as the same relate to:

(1) The selection of proper and correct chemicals for the particular pest control work performed.

(2) The safe and proper use of the pesticides used.

(3) The correct concentration and formulation of pesticides used in all pest control work performed.

(4) The training of personnel in the proper and acceptable methods of pest control.

(5) The control measures and procedures used.

(6) The notification of the department of any accidental human poisoning or death connected with pest control work performed on a job she or he is supervising, within 24 hours after she or he has knowledge of the poisoning or death.

Section 434. Subsection (2) of section 482.155, Florida Statutes, is amended to read:

482.155 Limited certification for governmental pesticide applicators or private applicators.—

(2) In lieu of obtaining limited certification under subsection (1), a governmental employee or private property applicator may apply pesticides if she or he is trained and supervised by a certified operator who is certified by the department in the categories of pest control that are performed by the employee or applicator and who is employed full time by the governmental agency or private property owner for which the pest control is performed.

Section 435. Subsections (1) and (11) of section 482.211, Florida Statutes, are amended to read:

482.211 Exemptions.—This chapter does not apply to:

(1) Pest control, except for fumigation, performed by a person upon her or his own individual residential property.

(11) A yard worker ~~yardman~~ when applying a pesticide to the lawn or ornamental plants of an individual residential property owner using pesticides owned and supplied by the individual residential property owner, provided the yard worker ~~yardman~~ does not advertise for or solicit pest control business and does not hold herself or himself out to the public as being engaged in pest control. The yard worker ~~yardman~~ may not supply her or his own pesticide application equipment, use pesticide-applying power equipment, or use any equipment other than a handheld container when applying the pesticide.

Section 436. Subsection (3) of section 482.226, Florida Statutes, is amended to read:

482.226 Wood-destroying organism inspection report; notice of inspection or treatment; financial responsibility.—

(3) If periodic reinspections or retreatments are specified in wood-destroying organisms preventive or control contracts, the licensee shall furnish the property owner or the property owner's ~~his~~ authorized agent, after each such reinspection or retreatment, a signed report indicating the presence or absence of wood-destroying organisms covered by the contract, whether retreatment was made, and the common or brand name of the pesticide used. Such report need not be on a form prescribed by the department. A person may not perform periodic reinspections or retreatments unless she or he has an identification card issued under s. 482.091(9).

Section 437. Subsection (3) of section 482.2267, Florida Statutes, is amended to read:

482.2267 Registry of persons requiring prior notification of the application of pesticides.—

(3) A person desiring to have his or her name continue to appear on the registry from year to year must submit an annual renewal fee of \$10, and an annual update of the physician's certificate.

Section 438. Paragraph (a) of subsection (1) of section 483.23, Florida Statutes, is amended to read:

483.23 Offenses; criminal penalties.—

(1)(a) It is unlawful for any person to:

1. Operate, maintain, direct, or engage in the business of operating a clinical laboratory unless she or he has obtained a clinical laboratory license from the agency or is exempt under s. 483.031.

2. Conduct, maintain, or operate a clinical laboratory, other than an exempt laboratory or a laboratory operated under s. 483.035, unless the clinical laboratory is under the direct and responsible supervision and direction of a person licensed under part IV of this chapter.

3. Allow any person other than an individual licensed under part IV of this chapter to perform clinical laboratory procedures, except in the operation of a laboratory exempt under s. 483.031 or a laboratory operated under s. 483.035.

4. Violate or aid and abet in the violation of any provision of this part or the rules adopted under this part.

Section 439. Subsection (8) of section 483.285, Florida Statutes, is amended to read:

483.285 Application of part; exemptions.—This part applies to all multiphasic health testing centers within the state, but does not apply to:

(8) An office of a duly licensed practitioner of the healing arts for the diagnosis and treatment of her or his patients.

Section 440. Section 483.308, Florida Statutes, is amended to read:

483.308 Medical director of center.—

(1) Each center licensed under this part shall employ a medical director who is either a physician licensed under chapter 458 or an osteopathic physician licensed under chapter 459 and who, as part of her or his usual medical practice, interprets electrocardiograms. In a contract multiphasic health testing center, electrocardiograms and X rays must be read and interpreted by the medical director of the contract center or respectively by a board-certified cardiologist or radiologist authorized by the medical director to read and interpret the electrocardiograms and X rays and report results to the medical director. Such secondary authorization by the medical director of the contract multiphasic health testing center does not operate to cede liability or responsibility for the test results to the board-certified cardiologist or radiologist. The medical director need not be present at the center while it is in operation. However, the medical director is responsible for assuring the proper clinical operation of the center.

(2) The medical director shall order all requests by the center for analyses to be conducted by clinical laboratories with respect to specimens col-

lected at the center. The results of such analyses, together with the results of any measurements or other testing procedures performed at the center, including electrocardiographic interpretations, shall be released to the medical director. The medical director of a consumer multiphasic health testing center shall read, interpret, and sign the results before they are released by the center to the patient. The medical director of a contract multiphasic health testing center shall read, interpret, and sign the results before they are released to the patient or may authorize the medical director of the contracting employer to read, interpret, and sign the results before they are released to the patient. Such secondary authorization by the medical director of the contract multiphasic health testing center does not operate to cede liability or responsibility for the test results to the medical director of the contracting employer. As a part of the required interpretation of any results from analyses conducted by a clinical laboratory, the medical director is responsible for determining whether the results indicate further medical advice or intervention is necessary. If the medical director so determines, then a statement to that effect must be included with the results together with a statement that the patient should seek medical advice from her or his physician or the county medical society with specific reference to the society's name, address, and telephone number. Notification under this subsection must be made by regular mail.

Section 441. Subsection (1) of section 483.817, Florida Statutes, is amended to read:

483.817 Renewal of clinical laboratory personnel license.—

(1) The department shall renew a license upon receipt of a renewal application and fee and upon certification by the board that the licensee has demonstrated her or his competence.

Section 442. Subsection (1) of section 483.819, Florida Statutes, is amended to read:

483.819 Inactive status.—

(1) A licensee may request that her or his license be placed in an inactive status by making application to the department and paying a fee in an amount set by the board.

Section 443. Section 483.821, Florida Statutes, is amended to read:

483.821 Periodic demonstration of competency; continuing education or reexamination.—

(1) As part of the license renewal procedure, the board, by rule, shall require each licensee periodically to demonstrate her or his competency by completing, each 2 years, not less than 10 or more than 30 hours of continuing education in programs approved by the board.

(2) The board may allow a licensee to demonstrate her or his competency by reexamination in lieu of satisfying the continuing education requirement.

Section 444. Section 483.823, Florida Statutes, is amended to read:

483.823 Qualifications of clinical laboratory personnel.—The board shall prescribe minimal qualifications for clinical laboratory personnel and shall issue a license to any person who meets the minimum qualifications and who demonstrates that she or he possesses the character, training, and ability to qualify in those areas for which the license is sought.

Section 445. Subsection (2) of section 483.825, Florida Statutes, is amended to read:

483.825 Grounds for disciplinary action against clinical laboratory personnel.—The following acts constitute grounds for which disciplinary actions specified in s. 483.827 may be taken against clinical laboratory personnel:

(2) Engaging in or attempting to engage in, or representing herself or himself as entitled to perform, any clinical laboratory procedure or category of procedures not authorized pursuant to her or his license.

Section 446. Paragraph (e) of subsection (4), paragraph (c) of subsection (10), and paragraphs (a), (b), and (f) of subsection (11) of section 483.901, Florida Statutes, are amended to read:

483.901 Medical physicists; definitions; licensure.—

(4) COUNCIL.—The Advisory Council of Medical Physicists is created in the Agency for Health Care Administration to regulate the practice of medical physics in this state.

(e) As the term of each member expires, the director shall appoint the successor for a term of 3 years. A member shall serve until her or his successor is appointed, unless physically unable to do so.

(10) PENALTIES.—

(c) If the agency determines that the licensee presents a clear and present danger to the public health or safety, the agency may issue an emergency order that immediately suspends or revokes her or his license.

(11) EXEMPTIONS.—This section does not apply to:

(a) A physician who is licensed by this state to the extent that the physician ~~he~~ practices within the scope of her or his training, education, and licensure;

(b) A person who is licensed under part IV of chapter 468 to the extent that the person ~~he~~ practices within the scope of her or his training, education, and licensure;

(f) A dentist or any person working under the dentist's ~~his~~ supervision pursuant to chapter 466 to the extent that the dentist or the person supervised by the dentist is practicing within the scope of her or his training, education, and licensure.

Section 447. Section 484.011, Florida Statutes, is amended to read:

484.011 Supportive personnel.—No person other than a licensed optician may engage in the practice of opticianry, except that a licensed optician may delegate to nonlicensed supportive personnel those duties, tasks, and functions which fall within the purview of s. 484.002(3). All such delegated acts shall be performed under the direct supervision of a licensed optician, who shall be responsible for all such acts performed by persons under her or his supervision.

Section 448. Paragraph (a) of subsection (1) and subsection (2) of section 484.013, Florida Statutes, are amended to read:

484.013 Violations and penalties.—

(1) It is unlawful for any person:

(a) To make a false or fraudulent statement, either for herself or himself or for another person, in any application, affidavit, or statement presented to the board or in any proceeding before the board.

(2) It is unlawful for any person other than an optician licensed under this part to use the title “optician” or otherwise lead the public to believe that she or he is engaged in the practice of opticianry.

Section 449. Paragraphs (k) and (t) of subsection (1) and subsection (3) of section 484.014, Florida Statutes, are amended to read:

484.014 Disciplinary actions.—

(1) The following acts relating to the practice of opticianry shall be grounds for both disciplinary action against an optician as set forth in this section and cease and desist or other related action by the department as set forth in s. 455.228 against any person operating an optical establishment who engages in, aids, or abets any such violation:

(k) Conspiring with another licensee or with any person to commit an act, or committing an act, which would coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(t) Being unable to practice opticianry with reasonable skill and safety by reason of illness or use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. An optician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of opticianry with reasonable skill and safety to her or his customers.

(3) The board shall not reinstate the license of an optician it has deemed unqualified until such time as it is satisfied that the optician ~~he~~ has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of opticianry.

Section 450. Subsections (1) and (2) of section 484.018, Florida Statutes, are amended to read:

484.018 Exceptions.—

(1) Nothing in this part shall be construed to prevent a person licensed in this state as a physician or as an optometrist from performing those services she or he is licensed to perform.

(2) Nothing in this part shall be construed to mean that an employee of a licensed physician or a licensed optometrist shall be required to secure a license under this part, so long as the employee is working exclusively for, and under the direct supervision of, the licensed physician or optometrist and does not hold herself or himself out to the public generally as an optician.

Section 451. Subsection (4) of section 484.042, Florida Statutes, is amended to read:

484.042 Board of Hearing Aid Specialists; membership, appointment, terms.—

(4) All provisions of chapter 455 relating to activities of regulatory boards apply to the board. However, notwithstanding the requirement of s. 455.225(4) that the board provide by rule for the determination of probable cause by a panel composed of its members or by the department, the board may provide by rule that its probable cause panel may be composed of one current member of the board and one past member of the board, as long as the past member is a licensed hearing aid specialist in good standing. The past board member shall be appointed to the panel for a maximum of 2 years by the chair ~~chairman~~ of the board with the approval of the secretary.

Section 452. Subsection (1) of section 484.0445, Florida Statutes, is amended to read:

484.0445 Training program.—

(1) The board shall establish by rule a training program not to exceed 6 months in length, which may include a board-approved home study course. Upon submitting to the department the registration fee, the applicant may register and enter the training program. Upon completion of the training program, the trainee shall take the first available written and practical examinations offered by the department. The department shall administer the written and practical examinations as prescribed by board rule. If the trainee fails either the written or the practical examination, she or he may repeat the training program one time and retake the failed examination, provided she or he takes the next available examination. No person may remain in trainee status or further perform any services authorized for a trainee if she or he fails either the written or the practical examination twice; but, a trainee may continue to function as a trainee until she or he has received the results of the ~~his~~ examinations. Any applicant who has failed an examination twice and is no longer functioning as a trainee shall be eligible for reexamination as provided in s. 484.045(2) and (3).

Section 453. Subsection (2) of section 484.045, Florida Statutes, is amended to read:

484.045 Licensure by examination.—

(2) On or after October 1, 1990, every applicant who is qualified to take the examination shall be allowed to take the examination three times. If, after October 1, 1990, an applicant fails the examination three times, the applicant he shall no longer be eligible to take the examination.

Section 454. Subsection (2) of section 484.051, Florida Statutes, is amended to read:

484.051 Itemization of prices; delivery of hearing aid; receipt, packaging, disclaimer, guarantee.—

(2) Any person who fits and sells a hearing aid shall, at the time of delivery, provide the purchaser with a receipt containing the seller's signature, the address of her or his regular place of business, and her or his license or trainee registration number, if applicable, together with the brand, model, manufacturer or manufacturer's identification code, and serial number of the hearing aid furnished and the amount charged for the hearing aid. The receipt also shall specify whether the hearing aid is new, used, or rebuilt and shall specify the length of time and other terms of the guarantee and by whom the hearing aid is guaranteed. When the client has requested an itemized list of prices, the receipt shall also provide an itemization of the total purchase price, including, but not limited to, the cost of the aid, earmold, batteries and other accessories, and any services. Notice of the availability of this service shall be displayed in a conspicuous manner in the office. The receipt also shall state that any complaint concerning the hearing aid and guarantee therefor, if not reconciled with the licensee from whom the hearing aid was purchased, should be directed by the purchaser to the Department of Business and Professional Regulation. The address and telephone number of such office shall be stated on the receipt.

Section 455. Paragraph (c) of subsection (1) of section 484.053, Florida Statutes, is amended to read:

484.053 Prohibitions; penalties.—

(1) A person may not:

(c) Present as her or his own the license of another;

Section 456. Section 484.058, Florida Statutes, is amended to read:

484.058 Declaration of place of business; posting of license and notice.— Each licensee shall declare and establish a regular place of business, at which the licensee's his license shall be conspicuously displayed.

Section 457. Section 486.028, Florida Statutes, is amended to read:

486.028 License to practice physical therapy required.—No person shall practice, or hold herself or himself out as being able to practice, physical therapy in this state unless she or he is licensed in accordance with the provisions of this chapter; however, nothing in this chapter shall prohibit

any person licensed in this state under any other law from engaging in the practice for which she or he is licensed.

Section 458. Paragraphs (a) and (b) of subsection (3) of section 486.031, Florida Statutes, are amended to read:

486.031 Physical therapist; licensing requirements.—To be eligible for licensing as a physical therapist, an applicant must:

(3)(a) Have been graduated from a school of physical therapy which has been approved for the educational preparation of physical therapists by the appropriate accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation (formerly the National Commission on Accrediting and the Federation of Regional Accrediting Commissions of Higher Education) or the United States Department of Education at the time of her or his graduation and have passed to the satisfaction of the board an examination administered by the department to determine her or his fitness for practice as a physical therapist as hereinafter provided; or

(b) Have received a diploma from a program in physical therapy in a foreign country and have educational credentials deemed equivalent to those required for the educational preparation of physical therapists in this country, as recognized by the appropriate agency as identified by the board, and have passed to the satisfaction of the board an examination administered by the department to determine her or his fitness for practice as a physical therapist as hereinafter provided; or

Section 459. Section 486.041, Florida Statutes, is amended to read:

486.041 Physical therapist; application for license; fee; temporary permit.—

(1) A person who desires to be licensed as a physical therapist shall apply to the board in writing on a form furnished by the department. She or he shall embody in that application evidence under oath, satisfactory to the board, of ~~possession of his possessing~~ the qualifications preliminary to examination required by s. 486.031. The applicant ~~He~~ shall pay to the department at the time of filing the his application a fee not to exceed \$100, as fixed by the board, plus the actual per applicant cost to the department for purchase of the examination from the Professional Examination Services for the American Physical Therapist's Association or a similar national organization. If an applicant is deemed ineligible to take the examination, that part of the his application fee which is to be used for examination expenses shall be returned.

(2) If a person desires to practice physical therapy before becoming licensed through examination, she or he shall apply to the board for a temporary permit in accordance with rules adopted pursuant to this chapter.

(a) A temporary permit shall only be issued for a limited period of time, not to exceed 1 year, and shall not be renewable. A temporary permit shall automatically expire if an applicant fails the examination.

(b) An applicant for licensure by examination and practicing under a temporary permit shall do so only under the direct supervision of a licensed physical therapist.

Section 460. Section 486.051, Florida Statutes, is amended to read:

486.051 Physical therapist; examination of applicant.—The department shall provide for examination of applicants for licensing as physical therapists at least once a year, and more often at the discretion of the board, at a time and place to be determined by the department. The examinations of an applicant for licensing as a physical therapist shall be administered by the department, in accordance with rules adopted by the board, to test the applicant's qualifications and shall include the taking of a written test by the applicant. If an applicant fails to pass the examination in three attempts, the applicant ~~he~~ shall not be eligible for reexamination unless she or he completes additional educational or training requirements prescribed by the board. An applicant who has completed the additional educational or training requirements prescribed by the board may take the examination on two more occasions. If the applicant has failed to pass the examination after five attempts, she or he is no longer eligible to take the examination.

Section 461. Section 486.061, Florida Statutes, is amended to read:

486.061 Physical therapist; issuance of license.—The board shall cause a license to be issued through the department to each applicant who successfully establishes ~~his~~ eligibility under the terms of this chapter and remits the initial license fee set by the board, not to exceed \$150. Any person who holds a license pursuant to this section may engage in the practice of physical therapy and use the words “physical therapist” or “physiotherapist,” or the letters “P.T.,” in connection with her or his name or place of business to denote her or his licensure hereunder.

Section 462. Subsections (1) and (3) of section 486.081, Florida Statutes, are amended to read:

486.081 Physical therapist; issuance of license without examination to person passing examination of another authorized examining board; temporary permit; fee.—

(1) The board may cause a license to be issued through the department without examination to any applicant who presents evidence satisfactory to the board of having passed an examination in physical therapy before a similar lawfully authorized examining board of another state, the District of Columbia, a territory, or a foreign country, if the standards for licensure in physical therapy in such other state, district, territory, or foreign country are determined by the board to be as high as those of this state, as established by rules adopted pursuant to this chapter. Any person who holds a license pursuant to this section may use the words “physical therapist” or “physiotherapist,” or the letters “P.T.,” in connection with her or his name or place of business to denote her or his licensure hereunder.

(3) If a person desires to practice physical therapy before becoming licensed through endorsement, she or he shall apply to the board for a tempo-

rary permit in accordance with rules adopted pursuant to this chapter. A temporary permit shall only be issued for a limited period of time, not to exceed 1 year, and shall not be renewable.

Section 463. Paragraph (c) of subsection (4) of section 486.085, Florida Statutes, is amended to read:

486.085 Physical therapist; renewal of license; inactive status; reactivation of license; fees.—

(4)

(c) The department may not reactivate a license unless the inactive licensee has met the continuing education requirements of subsection (3) or has fulfilled one of the following requirements for reactivation of a license:

1. Provides evidence satisfactory to the board that she or he has actively engaged in the practice of physical therapy in good standing in another state for the 4 years immediately preceding the filing of an application for reactivation; or

2. Makes application for and passes the examination as provided by s. 486.051 and pays the fee therefor as provided in s. 486.041.

Section 464. Paragraphs (a) and (b) of subsection (3) of section 486.102, Florida Statutes, are amended to read:

486.102 Physical therapist assistant; licensing requirements.—To be eligible for licensing by the board as a physical therapist assistant, an applicant must:

(3)(a) Have been graduated from a school giving a course of not less than 2 years for physical therapist assistants, which has been approved for the educational preparation of physical therapist assistants by the appropriate accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation (formerly the National Commission on Accrediting and the Federation of Regional Accrediting Commissions of Higher Education) or the United States Department of Education at the time of her or his graduation and have passed to the satisfaction of the board an examination administered by the department to determine her or his fitness for practice as a physical therapist assistant as hereinafter provided; or

(b) Have been graduated from a school giving a course for physical therapist assistants in a foreign country and have educational credentials deemed equivalent to those required for the educational preparation of physical therapist assistants in this country, as recognized by the appropriate agency as identified by the board, and passed to the satisfaction of the board an examination conducted by the department to determine her or his fitness for practice as a physical therapist assistant as hereinafter provided; or

Section 465. Section 486.103, Florida Statutes, is amended to read:

486.103 Physical therapist assistant; application for license; fee; temporary permit.—

(1) A person who desires to be licensed as a physical therapist assistant shall apply to the board in writing on a form furnished by the department. She or he shall embody in that application evidence under oath, satisfactory to the board, of possession of his ~~possessing~~ the qualifications preliminary to examination required by s. 486.104. The applicant ~~He~~ shall pay to the department at the time of filing the his application a fee not to exceed \$100, as fixed by the board, plus the actual per applicant cost to the department for purchase of the examination from the Professional Examination Services for the American Physical Therapist's Association or a similar national organization. If an applicant is deemed ineligible to take the examination, that part of the his application fee which is to be used for examination expenses shall be returned.

(2) If a person desires to work as a physical therapist assistant before being licensed through examination, she or he shall apply for a temporary permit in accordance with rules adopted pursuant to this chapter.

(a) A temporary permit shall only be issued for a limited period of time, not to exceed 1 year, and shall not be renewable. A temporary permit shall automatically expire if an applicant fails the examination.

(b) An applicant for licensure by examination who is practicing under a temporary permit shall do so only under the direct supervision of a licensed physical therapist.

Section 466. Section 486.104, Florida Statutes, is amended to read:

486.104 Physical therapist assistant; examination of applicant.—The department shall provide for examination of applicants for licensing as physical therapist assistants at least once a year, and more often at the discretion of the board, at a time and place to be determined by the department. The examination of an applicant for licensing as a physical therapist assistant shall be provided by the department, in accordance with rules adopted by the board, to test the applicant's qualifications and shall include the taking of a written test by the applicant. If an applicant fails to pass the examination in three attempts, the applicant ~~he~~ shall not be eligible for reexamination unless she or he completes additional educational or training requirements prescribed by the board. An applicant who has completed the additional educational or training requirements prescribed by the board may take the examination on two more occasions. If the applicant has failed to pass the examination after five attempts, she or he is no longer eligible to take the examination.

Section 467. Section 486.106, Florida Statutes, is amended to read:

486.106 Physical therapist assistant; issuance of license.—The board shall issue a license to each applicant who successfully establishes his eligibility under the terms of this chapter and remits the initial license fee set by the board, not to exceed \$100. Any person who holds a license pursuant to this section may use the words "physical therapist assistant," or the letters "P.T.A.," in connection with her or his name to denote his licensure hereunder.

Section 468. Subsections (1) and (3) of section 486.107, Florida Statutes, are amended to read:

486.107 Physical therapist assistant; issuance of license without examination to person licensed in another jurisdiction; temporary permit; fee.—

(1) The board may cause a license to be issued through the department without examination to any applicant who presents evidence to the board, under oath, of licensure in another state, the District of Columbia, or a territory, if the standards for registering as a physical therapist assistant or licensing of a physical therapist assistant, as the case may be, in such other state are determined by the board to be as high as those of this state, as established by rules adopted pursuant to this chapter. Any person who holds a license pursuant to this section may use the words “physical therapist assistant,” or the letters “P.T.A.,” in connection with her or his name to denote ~~his~~ licensure hereunder.

(3) If a person desires to work as a physical therapist assistant before being licensed through endorsement, she or he shall apply for a temporary permit in accordance with rules adopted pursuant to this chapter. A temporary permit shall only be issued for a limited period of time, not to exceed 1 year, and shall not be renewable.

Section 469. Paragraph (c) of subsection (4) of section 486.108, Florida Statutes, is amended to read:

486.108 Physical therapist assistant; renewal of license; inactive status; reactivation of license; fees.—

(4)

(c) The department may not reactivate a license unless the inactive licensee has met the continuing education requirements of subsection (3) or has fulfilled one of the following requirements for reactivation of a license:

1. Provides evidence satisfactory to the board that she or he has actively engaged in the practice of physical therapy in good standing in another state for the 4 years immediately preceding the filing of an application for reinstatement; or

2. Makes application for and passes the examination as provided by s. 486.104 and pays the fee therefor as provided in s. 486.103.

Section 470. Paragraphs (a), (b), (g), and (j) of subsection (1) and subsection (3) of section 486.125, Florida Statutes, are amended to read:

486.125 Refusal, revocation, or suspension of license; administrative fines and other disciplinary measures.—

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

(a) Being unable to practice physical therapy with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics,

chemicals, or any other type of material or as a result of any mental or physical condition.

1. In enforcing this paragraph, upon a finding of the secretary or the secretary's ~~his~~ designee that probable cause exists to believe that the licensee is unable to practice physical therapy due to the reasons stated in this paragraph, the department shall have the authority to compel a physical therapist or physical therapist assistant to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or serves as a physical therapy practitioner. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011.

2. A physical therapist or physical therapist assistant whose license is suspended or revoked pursuant to this subsection shall, at reasonable intervals, be given an opportunity to demonstrate that she or he can resume the competent practice of physical therapy with reasonable skill and safety to patients.

3. Neither the record of proceeding nor the orders entered by the board in any proceeding under this subsection may be used against a physical therapist or physical therapist assistant in any other proceeding.

(b) Having committed fraud in the practice of physical therapy or deceit in obtaining a ~~his~~ license as a physical therapist or as a physical therapist assistant.

(g) Having a license revoked or suspended; having had other disciplinary action taken against her or him; or having had her or his application for a license refused, revoked, or suspended by the licensing authority of another state, territory, or country.

(j) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform, including, but not limited to, specific spinal manipulation.

(3) The board shall not reinstate the license of a physical therapist or physical therapist assistant or cause a license to be issued to a person it has deemed unqualified until such time as it is satisfied that she or he has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of physical therapy.

Section 471. Subsection (1) of section 486.135, Florida Statutes, is amended to read:

486.135 False representation of licensure, or willful misrepresentation or fraudulent representation to obtain license, unlawful.—

(1)(a) It is unlawful for any person who is not licensed under this chapter as a physical therapist, or whose license has been suspended or revoked, to use in connection with her or his name or place of business the words “physical therapist,” “physiotherapist,” “physical therapy,” “physiotherapy,” “registered physical therapist,” or “licensed physical therapist”; or the letters “P.T.,” “Ph.T.,” “R.P.T.,” or “L.P.T.”; or any other words, letters, abbreviations, or insignia indicating or implying that she or he is a physical therapist or to represent herself or himself as a physical therapist in any other way, orally, in writing, in print, or by sign, directly or by implication, unless physical therapy services are provided or supplied by a physical therapist licensed in accordance with this chapter.

(b) It is unlawful for any person who is not licensed under this chapter as a physical therapist assistant, or whose license has been suspended or revoked, to use in connection with her or his name the words “physical therapist assistant,” “licensed physical therapist assistant,” “registered physical therapist assistant,” or “physical therapy technician”; or the letters “P.T.A.,” “L.P.T.A.,” “R.P.T.A.,” or “P.T.T.”; or any other words, letters, abbreviations, or insignia indicating or implying that she or he is a physical therapist assistant or to represent herself or himself as a physical therapist assistant in any other way, orally, in writing, in print, or by sign, directly or by implication.

Section 472. Subsection (1) and paragraph (a) of subsection (2) of section 486.161, Florida Statutes, are amended to read:

486.161 Exemptions.—

(1) No provision of this chapter shall be construed to prohibit any person licensed in this state from using any physical agent as a part of, or incidental to, the lawful practice of her or his profession under the statutes applicable to the profession of chiropractor, podiatrist, doctor of medicine, massage therapist, nurse, osteopathic physician or surgeon, occupational therapist, or naturopath.

(2) No provision of this chapter shall be construed to prohibit:

(a) Any student who is enrolled in a school or course of physical therapy approved by the board from performing such acts of physical therapy as are incidental to her or his course of study; or

Section 473. Subsection (2) of section 486.171, Florida Statutes, is amended to read:

486.171 Current valid licenses effective.—

(2) Any person employed by or assisting the physical therapist as an aide shall be considered eligible to continue to perform her or his duties, provided she or he was so employed prior to the 1973 amendments to this chapter. She or he shall not be eligible to be licensed as a physical therapist assistant or to call herself or himself an assistant until she or he meets the requirements of this chapter.

Section 474. Subsections (8), (22), (30), and (41), paragraph (b) of subsection (48), and subsections (49) and (65) of section 487.021, Florida Statutes, are amended to read:

487.021 Definitions.—For the purpose of this part:

(8) “Animal” means all vertebrate and invertebrate species, including, but not limited to, humans ~~man~~ and other mammals, birds, fish, and shellfish.

(22) “Device” means any instrument or contrivance (other than a fire-arm) which is intended for trapping, destroying, repelling, or mitigating, any pest or other form of plant or animal life (other than human ~~man~~ and other than bacteria, virus, or other microorganism on or in living humans ~~man~~ or other living animals); but not including equipment used for the application of pesticides when sold separately.

(30) “Fungi” means all non-chlorophyll-bearing thallophytes (that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts), as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living humans ~~man~~ or other animals.

(41) “Licensed applicator” means an individual who has reached the age of majority and is authorized by license from the department to use or supervise the use of any restricted-use pesticide covered by the ~~his~~ license.

(48) “Pest” means:

(b) Any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism, except viruses, bacteria, or other microorganisms on or in living humans ~~man~~ or other living animals, which is declared to be a pest by the administrator of the United States Environmental Protection Agency or which may be declared to be a pest by the department by rule.

(49) “Pesticide” means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans ~~man~~ or other animals, which the department by rule declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; however, the term “pesticide” does not include any article that:

(a) Is a “new animal drug” within the meaning of s. 201(w) of the Federal Food, Drug, and Cosmetic Act;

(b) Has been determined by the Secretary of the United States Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article; or

(c) Is an animal feed within the meaning of s. 201(x) of the Federal Food, Drug, and Cosmetic Act bearing or containing an article covered in this subsection.

(65) “Unreasonable adverse effects on the environment” means any unreasonable risk to humans ~~man~~ or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

Section 475. Paragraphs (d), (g), and (h) of subsection (2) of section 487.025, Florida Statutes, are amended to read:

487.025 Misbranding.—

(2) A pesticide is misbranded if:

(d) The label does not contain a warning or caution statement which may be necessary and, if complied with, adequate to prevent injury to living humans ~~man~~ and other vertebrate animals.

(g) It is injurious to living humans ~~man~~ or other vertebrate animals or vegetation, except weeds, to which it is applied, or to the person applying such pesticide as directed or in accordance with commonly recognized practice.

(h) In the case of a plant regulator, defoliant, or desiccant, when used as directed, it is injurious to living humans ~~man~~ or other vertebrate animals, or vegetation, to which it is applied, or to the person applying such pesticide. However, physical or physiological effects on plants or parts thereof shall not be deemed to be injury when this is the purpose for which the plant regulator, defoliant, or desiccant was applied in accordance with the label claims and recommendations.

Section 476. Subsection (1) of section 487.049, Florida Statutes, is amended to read:

487.049 Renewal; late fee; recertification.—

(1) The department shall require renewal of a certified applicator’s license at 4-year intervals from the date of issuance. If the application for renewal of any license provided for in this part is not filed on time, a late fee shall be assessed not to exceed \$50. However, the penalty shall not apply if the renewal application is filed within 60 days after the renewal date, provided the applicant furnishes an affidavit certifying that he or she has not engaged in business subsequent to the expiration of the ~~his~~ license for a period not exceeding 60 days. A license may be renewed without taking another examination unless the department determines that new knowledge related to the classification for which the applicant has applied makes a new examination necessary; however, the department may require the applicant to provide evidence of continued competency, as determined by rule. If the license is not renewed within 60 days of the expiration date, then the licensee may again be required to take another examination, unless there is some unavoidable circumstance which results in the delay of the renewal of any license issued under this part which was not under the applicant’s control.

Section 477. Paragraph (a) of subsection (1) of section 487.051, Florida Statutes, is amended to read:

487.051 Administration; rules; procedure.—

(1) The department may by rule:

(a) Declare as a pest any form of plant or animal life or virus which is injurious to plants, humans ~~man~~, domestic animals, articles, or substances.

Section 478. Subsection (1) of section 487.1585, Florida Statutes, is amended to read:

487.1585 Duties of licensee with respect to unlicensed applicators and mixer-loaders and field workers.—

(1) Each licensed applicator shall provide to each unlicensed applicator or mixer-loader working under his or her direct supervision adequate instruction and training so that the applicator or mixer-loader understands the safety procedures required for the pesticides that will be used. The applicator or mixer-loader shall be given this training before handling restricted-use pesticides. This training shall be set forth by the department by rule and shall include, but not be limited to, the safety procedures to be followed as specified on the label; the safety clothing and equipment to be worn; the common symptoms of pesticide poisoning; the dangers of eating, drinking, or smoking while handling pesticides; and where to obtain emergency medical treatment. No licensee shall be permitted to provide direct supervision to more than 15 unlicensed applicators or mixer-loaders at any given time.

Section 479. Subsection (1) of section 488.04, Florida Statutes, is amended to read:

488.04 Driver's training school instructors; certificates; qualifications.—

(1) No person shall receive compensation for giving instructions in the operation of motor vehicles or act in the capacity of a professional driver's training school instructor in this state without first obtaining an instructor's certificate issued for such purpose by the Department of Highway Safety and Motor Vehicles. An application for a certificate shall be made in the form prescribed by the department. The fee for the initial application is \$25, which is not refundable. The fee for the annual renewal of a certificate is \$10. A certificate is valid for use only in connection with the business of the driver's school or schools listed on the certificate by the department or in connection with a driver's education course offered by a district school board. An applicant for an instructor's certificate shall be required to take special eye tests, written tests, and road tests and to furnish proof of his or her qualifications and ability as an instructor.

Section 480. Subsection (2) of section 489.111, Florida Statutes, is amended to read:

489.111 Examinations.—

(2) A person shall be entitled to take the examination for the purpose of determining whether he or she is qualified to engage in contracting throughout this state if the person:

- (a) Is 18 years of age;
- (b) Is of good moral character; and
- (c) Meets eligibility requirements according to one of the following criteria:

1. Has received a baccalaureate degree from an accredited 4-year college in the appropriate field of engineering, architecture, or building construction and has 1 year of proven experience in the category in which the person seeks to qualify. For the purpose of this part, a minimum of 2,000 person-hours ~~man-hours~~ shall be used in determining full-time equivalency.

2. Has a total of at least 4 years of active experience as a worker ~~workman~~ who has learned the ~~his~~ trade by serving an apprenticeship as a skilled worker ~~workman~~ who is able to command the rate of a mechanic in the ~~his~~ particular trade or as a foreman who is in charge of a group of workers ~~workmen~~ and usually is responsible to a superintendent or a contractor or his or her equivalent, provided, however, that at least 1 year of active experience shall be as a foreman.

3. Has a combination of not less than 1 year of experience as a foreman and not less than 3 years of credits for any accredited college-level courses; has a combination of not less than 1 year of experience as a skilled worker ~~workman~~, 1 year of experience as a foreman, and not less than 2 years of credits for any accredited college-level courses; or has a combination of not less than 2 years of experience as a skilled worker ~~workman~~, 1 year of experience as a foreman, and not less than 1 year of credits for any accredited college-level courses. For the number of years of credits for any accredited college-level courses, the applicant shall show completion of an equal number of courses in the appropriate field of engineering, architecture, or building construction. All junior college or community college-level courses shall be considered accredited college-level courses.

4.a. An active certified residential contractor is eligible to take the building contractors' examination if he or she possesses a minimum of 3 years of proven experience in the classification in which he or she is certified.

b. An active certified residential contractor is eligible to take the general contractors' examination if he or she possesses a minimum of 4 years of proven experience in the classification in which he or she is certified.

c. An active certified building contractor is eligible to take the general contractors' examination if he or she possesses a minimum of 4 years of proven experience in the classification in which he or she is certified.

5.a. An active certified air-conditioning Class C contractor is eligible to take the air-conditioning Class B contractors' examination if he or she possesses a minimum of 3 years of proven experience in the classification in which he or she is certified.

b. An active certified air-conditioning Class C contractor is eligible to take the air-conditioning Class A contractors' examination if he or she pos-

sesses a minimum of 4 years of proven experience in the classification in which he or she is certified.

c. An active certified air-conditioning Class B contractor is eligible to take the air-conditioning Class A contractors' examination if he or she possesses a minimum of 1 year of proven experience in the classification in which he or she is certified.

6.a. An active certified swimming pool servicing contractor is eligible to take the residential swimming pool contractors' examination if he or she possesses a minimum of 3 years of proven experience in the classification in which he or she is certified.

b. An active certified swimming pool servicing contractor is eligible to take the swimming pool commercial contractors' examination if he or she possesses a minimum of 4 years of proven experience in the classification in which he or she is certified.

c. An active certified residential swimming pool contractor is eligible to take the commercial swimming pool contractors' examination if he or she possesses a minimum of 1 year of proven experience in the classification in which he or she is certified.

Section 481. Subsection (1), paragraphs (b) and (g) of subsection (3), paragraph (a) of subsection (4), paragraph (b) of subsection (7), and subsections (8) and (9) of section 489.113, Florida Statutes, are amended to read:

489.113 Qualifications for practice; restrictions.—

(1) Any person who desires to engage in contracting on a statewide basis shall, as a prerequisite thereto, establish his or her competency and qualifications to be certified pursuant to this part. To establish ~~his~~ competency, a person shall pass the appropriate examination administered by the department. Any person who desires to engage in contracting on other than a statewide basis shall, as a prerequisite thereto, be registered pursuant to this part, unless exempted by this part.

(3) A contractor shall subcontract all electrical, mechanical, plumbing, roofing, sheet metal, swimming pool, and air-conditioning work, unless such contractor holds a state certificate or registration in the respective trade category, however:

(b) A general, building, or residential contractor shall not be required to subcontract the installation, or repair made under warranty, of wood shingles, wood shakes, or asphalt or fiberglass shingle roofing materials on a new building of his or her own construction.

(g) No general, building, or residential contractor certified after 1973 shall act as, hold himself or herself out to be, or advertise himself or herself to be a roofing contractor unless he or she is certified or registered as a roofing contractor.

(4)(a) When a certificateholder desires to engage in contracting in any area of the state, as a prerequisite therefor, he or she shall be required only

to exhibit to the local building official, tax collector, or other person in charge of the issuance of licenses and building permits in the area evidence of holding a current certificate and to pay the fee for the occupational license and building permit required of other persons.

(7) If an eligible applicant fails any contractor's written examination, except the general and building contractors' examination, and provides the board with acceptable proof of lack of comprehension of written examinations, the applicant may petition the board to be administered a uniform oral examination, subject to the following conditions:

(b) The applicant files written recommendations concerning his or her competency in the appropriate construction craft.

(8) Any public record of the board, when certified by the executive director of the board or the executive director's his representative, may be received as prima facie evidence in any administrative or judicial proceeding.

(9) Nothing in this part shall be construed to prevent any contractor from acting as a prime contractor where the majority of the work to be performed under the contract is within the scope of his or her license and from subcontracting to other licensed contractors that remaining work which is part of the project contracted.

Section 482. Paragraph (a) of subsection (4), paragraphs (b) and (c) of subsection (5), and subsection (6) of section 489.115, Florida Statutes, are amended to read:

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

(4)(a) Each certificateholder or registrant who desires to continue as a certificateholder or registrant shall renew the his certificate or registration every 2 years. The department shall mail each certificateholder and registrant an application for renewal.

(5)

(b) In addition to the affidavit of insurance, as a prerequisite to the initial issuance of a certificate, the applicant shall furnish evidence of financial responsibility, credit, and business reputation of either himself or herself or the business organization he or she desires to qualify. The board shall adopt rules defining financial responsibility based upon the applicant's credit history, ability to be bonded, and any history of bankruptcy or assignment of receivers. Such rules shall specify the financial responsibility grounds on which the board may refuse to qualify an applicant for certification.

(c) If, within 60 days from the date the applicant is notified that he or she has qualified, he or she does not provide the evidence required, he or she shall apply to the department for an extension of time which shall be granted upon a showing of just cause.

(6) An initial applicant shall, along with the his application, and a certificateholder or registrant shall, upon requesting a change of status, submit

to the board a credit report from a nationally recognized credit agency that reflects the financial responsibility of the applicant or certificateholder or registrant. The credit report required for the initial applicant shall be considered the minimum evidence necessary to satisfy the board that he or she is financially responsible to be certified, ~~that he~~ has the necessary credit and business reputation to engage in contracting in the state, and ~~that he~~ has the minimum financial stability necessary to avoid the problem of financial mismanagement or misconduct. The board shall, by rule, adopt guidelines for determination of financial stability.

Section 483. Paragraphs (a) and (b) of subsection (1) of section 489.117, Florida Statutes, are amended to read:

489.117 Registration; specialty contractors.—

(1)(a) Any person engaged in the business of a contractor in the state shall be registered in the proper classification, unless he or she is certified. Any person entering the business of a contractor shall be registered prior to engaging in business as a contractor, unless he or she is certified. To be initially registered, the applicant shall submit the required fee and file evidence, in a form provided by the department, of holding a current local occupational license required by any municipality, county, or development district, if any, for the type of work for which registration is desired and evidence of successful compliance with the local examination and licensing requirements, if any, in the area for which registration is desired. No examination shall be required for registration.

(b) Registration allows the registrant to engage in contracting only in the counties, municipalities, or development districts where he or she has complied with all local licensing requirements and only for the type of work covered by the registration.

Section 484. Subsection (1), paragraph (e) of subsection (2), and paragraphs (a) and (d) of subsection (3) of section 489.1195, Florida Statutes, are amended to read:

489.1195 Responsibilities.—

(1) A qualifying agent is a primary qualifying agent unless he or she is a secondary qualifying agent under this section.

(a) All primary qualifying agents for a business organization are jointly and equally responsible for supervision of all operations of the business organization; for all field work at all sites; and for financial matters, both for the organization in general and for each specific job.

(b) Upon approval by the board, a business entity may designate a financially responsible officer for purposes of certification or registration. A financially responsible officer shall assume personal responsibility for all financial aspects of the business organization and may not be designated as the primary qualifying agent.

(c) Where a business organization has a certified or registered financially responsible officer, the primary qualifying agent shall be responsible for all

construction activities of the business organization, both in general and for each specific job.

(2)

(e) A secondary qualifying agent is responsible only for:

1. The supervision of field work at sites where his or her license was used to obtain the building permit; and

2. Any other work for which he or she accepts responsibility.

A secondary qualifying agent is not responsible for supervision of financial matters.

(3)(a) A qualifying agent who has been designated by a joint agreement as the sole primary qualifying agent for a business organization may terminate this his status as such by giving actual notice to the business organization, to the board, and to all secondary qualifying agents of his or her intention to terminate this his status. ~~The His~~ notice to the board must include proof satisfactory to the board that he or she has given the notice required in this paragraph.

(d) Any change in the status of a qualifying agent is prospective only. A qualifying agent is not responsible for his or her predecessor's actions but is responsible, even after a change in status, for matters for which he or she was responsible while in a particular status.

Section 485. Section 489.121, Florida Statutes, is amended to read:

489.121 Emergency registration upon death of contractor.—If an incomplete contract exists at the time of death of a contractor, the contract may be completed by any person even though not certified or registered. Such person shall notify the board, within 30 days after the death of the contractor, of his or her name and address, ~~his~~ knowledge of the contract, and ~~his~~ ability to complete it. If the board approves, he or she may proceed with the contract. For purposes of this section, an incomplete contract is one which has been awarded to, or entered into by, the contractor before his or her death, or on which he or she was the low bidder and the contract is subsequently awarded to him or her, regardless of whether any actual work has commenced under the contract before the contractor's his death.

Section 486. Section 489.128, Florida Statutes, is amended to read:

489.128 Contracts performed by unlicensed contractors unenforceable.—As a matter of public policy, contracts entered into on or after October 1, 1990, and performed in full or in part by any contractor who fails to obtain or maintain a his license in accordance with this part shall be unenforceable in law or in equity. However, in the event the contractor obtains or reinstates his or her license, the provisions of this section shall no longer apply.

Section 487. Subsections (2) and (3) of section 489.133, Florida Statutes, are amended to read:

489.133 Pollutant storage systems specialty contractors; definitions; certification; restrictions.—

(2) The board shall adopt rules providing standards for registration of precision tank testers who precision test a pollutant storage tank. The Department of Environmental Protection shall approve the methodology, procedures, and equipment used and shall approve the applicant as being eligible for registration as a registered precision tank tester. A registered precision tank tester is subject to the provisions of ss. 489.129 and 489.132 and is considered a contractor operating as a primary qualifying agent for the business entity employing him or her, which is considered a contracting firm for the purposes of ss. 489.129 and 489.132. A person who registers under this subsection is exempt from municipal, county, or development district registration under s. 489.117 and may operate as a precision tank tester statewide.

(3) The board shall adopt rules providing standards for registration of internal pollutant storage tank lining applicators who internally line pollutant storage tanks as a method of upgrading or repairing pollutant storage tanks to prevent discharge of pollutants. The Department of Environmental Protection shall approve the methodology, procedures, and equipment used and shall approve the applicant as being eligible for registration as a registered internal pollutant storage tank lining applicator. A registered internal pollutant storage tank lining applicator is subject to the provisions of ss. 489.129 and 489.132, and shall be considered a contractor operating as a primary qualifying agent for the business entity employing him or her, which entity shall be considered a contracting firm for the purposes of ss. 489.129 and 489.132.

Section 488. Section 489.134, Florida Statutes, is amended to read:

489.134 Authority of licensed job scope.—A licensee under this part need not have a license under part II to perform work within the scope of his or her license under this part.

Section 489. Paragraph (a) of subsection (1) of section 489.141, Florida Statutes, is amended to read:

489.141 Conditions for recovery; eligibility.—

(1) Any person is eligible to seek recovery from the Construction Industries Recovery Fund after having made a claim and exhausting the limits of any available bond, cash bond, surety, guarantee, warranty, letter of credit, or policy of insurance, if:

(a) Such person has received final judgment in a court of competent jurisdiction in this state in any action wherein the cause of action was based on a construction contract or the Construction Industry Licensing Board has issued a final order directing the licensee to pay restitution to the claimant based upon a violation of s. 489.129(1)(d), (h), (k), or (l), where the contract was executed and the violation occurred on or after July 1, 1993, and provided that:

1. At the time the action was commenced, such person gave notice thereof to the board by certified mail; except that, if no notice has been given to the board, the claim may still be honored if the board finds good cause to waive the notice requirement;

2. Such person has caused to be issued a writ of execution upon such judgment, and the officer executing the writ has made a return showing that no personal or real property of the judgment debtor liable to be levied upon in satisfaction of the judgment can be found or that the amount realized on the sale of the judgment debtor's property pursuant to such execution was insufficient to satisfy the judgment; or

3. If such person is unable to comply with subparagraph 2. for a valid reason to be determined by the board, such person has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets subject to being sold or applied in satisfaction of the judgment and by his or her search ~~he~~ has discovered no property or assets or ~~he~~ has discovered property and assets and has taken all necessary action and proceedings for the application thereof to the judgment but the amount thereby realized was insufficient to satisfy the judgment; or

Section 490. Subsection (2) of section 489.509, Florida Statutes, is amended to read:

489.509 Fees.—

(2) A person who is registered or holds a valid certificate from the board may go on inactive status during which time he or she shall not engage in contracting, but may retain the ~~his~~ certificate or registration on an inactive basis, on payment of a renewal fee during the inactive period, not to exceed \$50 per renewal period.

Section 491. Paragraph (a) of subsection (2) of section 489.511, Florida Statutes, is amended to read:

489.511 Certification; application; examinations; endorsement.—

(2)(a) A person shall be entitled to take the certification examination for the purpose of determining whether he or she is qualified to engage in contracting throughout the state as a contractor if the person:

1. Is at least 18 years of age;
2. Is of good moral character; and
3. Meets eligibility requirements according to one of the following criteria:

a. Has, within the 6 years immediately preceding the filing of the application, at least 3 years' proven management experience in the trade or education equivalent thereto, or a combination thereof, but not more than one-half of such experience may be educational equivalent;

b. Has, within the 8 years immediately preceding the filing of the application, at least 4 years' experience as a foreman, supervisor, or contractor in the trade for which he or she is making application;

c. Has, within the 12 years immediately preceding the filing of the application, at least 6 years of comprehensive training, technical education, or broad experience associated with an electrical or alarm system installation or servicing endeavor; or

d. Has been licensed for 3 years as an engineer.

Section 492. Subsection (1), paragraph (b) of subsection (3), and subsection (5) of section 489.513, Florida Statutes, are amended to read:

489.513 Registration; application; requirements.—

(1) Any person engaged in the business of contracting in the state shall be registered in the proper classification, unless he or she is certified. Any person desiring to be a registered contractor shall apply to the department for registration.

(3)

(b) To be registered as an alarm system contractor I, an alarm system contractor II, or a residential alarm system contractor, the applicant shall file evidence of holding a current occupational license or a current license issued by any municipality or county of the state for the type of work for which registration is desired, on a form provided by the department, if such a license is required by that municipality or county, together with evidence of having passed an appropriate local examination, written or oral, designed to test skills and knowledge relevant to the technical performance of the profession, accompanied by the registration fee fixed pursuant to this part. For any person working or wishing to work in any local jurisdiction which does not issue a local license as an alarm system contractor or does not require an examination for its license, the applicant may apply and shall be considered qualified to be issued a registration in the appropriate alarm system category, provided that he or she shows that he or she has scored at least 75 percent on an examination which is substantially equivalent to the examination approved by the board for certification in the category and that he or she has had at least 3 years' technical experience in the trade. The requirement to take and pass an examination in order to obtain a registration shall not apply to persons making application prior to the effective date of this act.

(5) Registration permits the registrant to engage in contracting only in the area and for the type of work covered by the registration, unless local licenses are issued for other areas and types of work or unless certification is obtained. When a registrant desires to register in an additional area of the state, he or she shall first comply with any local requirements of that area and then file a request with the department, together with evidence of holding a current occupational license or license issued by the county or municipality for the area or areas in which he or she desires to be registered,

whereupon his or her evidence of registration shall be endorsed by the department to reflect valid registration for the new area or areas.

Section 493. Paragraph (b) of subsection (1) of section 489.515, Florida Statutes, is amended to read:

489.515 Issuance of certificates; registrations.—

(1)

(b) The board shall certify as qualified for certification any person who satisfies the requirements of s. 489.511, who successfully passes the certification examination administered by the department, achieving a passing grade as established by board rule, and who submits satisfactory evidence that he or she has obtained both workers' compensation insurance or an acceptable exemption certificate issued by the department and public liability and property damage insurance for the health, safety, and welfare of the public in amounts determined by rule of the board, and furnishes evidence of financial responsibility, credit, and business reputation of either himself or herself or the business organization he or she desires to qualify.

Section 494. Subsections (1) and (3) of section 489.516, Florida Statutes, are amended to read:

489.516 Qualifications to practice; restrictions; prerequisites.—

(1) Any person who desires to engage in electrical or alarm system contracting on a statewide basis shall, as a prerequisite thereto, establish his or her competency and qualifications to be certified pursuant to this part. To establish his competency, a person shall pass the appropriate examination administered by the department. Any person who desires to engage in contracting on other than a statewide basis shall, as a prerequisite thereto, be registered pursuant to this part, unless exempted by this part.

(3) When a certificateholder desires to engage in contracting in any area of the state, as a prerequisite therefor, he or she shall only be required to exhibit to the local building official, tax collector, or other authorized person in charge of the issuance of licenses and building or electrical permits in the area evidence of holding a current certificate, and to pay the fee for the occupational license and permit required of other persons. However, a local construction regulation board may deny the issuance of an electrical permit to a certified contractor, or issue a permit with specific conditions, if the local construction regulation board has found such contractor, through the public hearing process, to be guilty of fraud or a willful building code violation within the county or municipality that the local construction regulation board represents, or if the local construction regulation board has proof that such contractor, through the public hearing process, has been found guilty, in another county or municipality within the past 12 months, of fraud or a willful building code violation and finds, after providing notice to the contractor, that such fraud or violation would have been fraud or a violation if committed in the county or municipality that the local construction board represents. Notification of and information concerning such permit denial

shall be submitted to the Department of Business and Professional Regulation within 15 days after the local construction regulation board decides to deny the permit.

Section 495. Subsections (2), (4), and (5), paragraph (a) of subsection (7), and subsection (8) of section 489.521, Florida Statutes, are amended to read:

489.521 Business organizations; qualifying agents.—

(2)(a)1. If the applicant proposing to engage in contracting is a partnership, corporation, business trust, or other legal entity, other than a sole proprietorship, the application shall state the name of the partnership and its partners; the name of the corporation and its officers and directors and the name of each of its stockholders who is also an officer or director; the name of the business trust and its trustees; or the name of such other legal entity and its members. In addition, the applicant shall furnish evidence of statutory compliance if a fictitious name is used. Such application shall also show that the qualifying agent is legally qualified to act for the business organization in all matters connected with its electrical or alarm system contracting business and that he or she has authority to supervise electrical or alarm system contracting undertaken by such business organization. A joint venture, including a joint venture composed of qualified business organizations, is itself a separate and distinct organization that shall be qualified in accordance with board rules. The registration or certification when issued upon application of a business organization shall be in the name of the qualifying agent, and the name of the business organization shall be noted thereon. If there is a change in any information that is required to be stated on the application, the business organization shall, within 45 days after such change occurs, mail the correct information to the department.

2. Any person certified or registered pursuant to this part who has had his or her license revoked shall not be eligible for a 5-year period to be a partner, officer, director, or trustee of a business organization as defined by this section. Such person shall also be ineligible to reapply for certification or registration under this part for a period of 5 years.

(b) The application shall also show that the proposed qualifying agent is legally qualified to act for the business organization in matters connected with its contracting business and concerning regulations by the board and that he or she has authority to supervise work undertaken by the business organization.

(c) The proposed qualifying agent shall demonstrate that he or she possesses the required skill, knowledge, and experience to qualify the business organization in the following manner:

1. Having met the qualifications provided in s. 489.511 and been issued a certificate of competency pursuant to the provisions of s. 489.511; or

2. Having demonstrated that he or she possesses the required experience and education requirements provided in s. 489.511 which would qualify him or her as eligible to take the certification examination.

(4) As a prerequisite to the initial issuance or the renewal of a certificate, the certificateholder or the business organization he or she qualifies shall submit an affidavit on a form provided by the board attesting to the fact that he or she or the business organization has obtained public liability and property damage insurance for the safety and welfare of the public in an amount to be determined by rule by the board. The board shall by rule establish a procedure to verify the accuracy of such affidavits based upon a random sample method. In addition to the affidavit of insurance, as a prerequisite to the initial issuance of a certificate, the applicant shall furnish evidence of financial responsibility, credit, and business reputation of either himself or herself or the business organization he or she desires to qualify. The board shall adopt rules defining financial responsibility based upon the credit history, ability to be bonded, and any history of bankruptcy or assignment of receivers. Such rules shall specify the financial responsibility grounds on which the board may refuse to qualify an applicant to engage in the contracting business. If, within 60 days from the date the certificateholder or business organization is notified that he or she has qualified, he or she does not provide the evidence required, he or she shall apply to the department for an extension of time which shall be granted upon a showing of just cause. Thereupon, the board shall certify to the department that the certificateholder or the business organization is competent and qualified to engage in contracting. However, the provisions of this subsection do not apply to inactive certificates.

(5) At least one member or supervising employee of the business organization must be qualified under this act in order for the business organization to be qualified to engage in contracting in the category of the business conducted for which the member or supervising employee is qualified. If any individual so qualified on behalf of the business organization ceases to be affiliated with the business organization, he or she shall notify the board and the department thereof within 30 days after such occurrence. In addition, if the individual is the only qualified individual affiliated with the business organization, the business organization shall notify the board and the department of the individual's termination, and it shall have a period of 60 days from the termination of the individual's affiliation with the business organization in which to qualify another person under the provision of this act, failing which, the board shall determine that the business organization is no longer qualified to engage in contracting. The individual shall also inform the board in writing when he or she proposes to engage in contracting in his or her own name or in affiliation with another business organization, and the individual ~~he~~, or such new business organization, shall supply the same information to the board as required for applicants under this act. After an investigation of the financial responsibility, credit, and business reputation of the individual or the new business organization and upon a favorable determination, the board shall certify the business organization as qualified, and the department shall issue, without examination, a new certificate in the individual's name, which shall include the name of the new business organization, as provided in this section.

(7)(a) Each registered or certified contractor shall affix the number of his or her registration or certification to each application for a building permit

and to each building permit issued and recorded. Each city or county building department shall require, as a precondition for the issuance of a building permit, that the contractor applying for the permit provide verification giving the number of his or her registration or certification under this part.

(8) Each qualifying agent shall pay the department an amount equal to the original fee for certification or registration to qualify any additional business organizations. If the qualifying agent for a business organization desires to qualify additional business organizations, the board shall require him or her to present evidence of ability and financial responsibility of each such organization. The issuance of such certification or registration is discretionary with the board.

Section 496. Subsection (1), paragraph (b) of subsection (2), and subsection (3) of section 489.522, Florida Statutes, are amended to read:

489.522 Qualifying agents; responsibilities.—

(1) A qualifying agent is a primary qualifying agent unless he or she is a secondary qualifying agent under this section. All primary qualifying agents for a business organization are jointly and equally responsible for supervision of all operations of the business organization; for all field work at all sites; and for financial matters, both for the organization in general and for each specific job.

(2) One of the qualifying agents for a business organization that has more than one qualifying agent may be designated as the sole primary qualifying agent for the business organization by a joint agreement that is executed, on a form provided by the board, by all qualifying agents for the business organization. The joint agreement shall be submitted to the board for approval. If the board determines that the joint agreement is in good order, it shall approve the designation and immediately notify the qualifying agents of such approval. The designation made by the joint agreement is effective upon receipt of the notice by the qualifying agents. The qualifying agent designated for a business organization by a joint agreement is the sole primary qualifying agent for the business organization, and all other qualifying agents for the business organization are secondary qualifying agents.

(b) A secondary qualifying agent is responsible only for:

1. The supervision of field work at sites where his or her license was used to obtain the building permit; and
2. Any other work for which he or she accepts responsibility.

A secondary qualifying agent is not responsible for supervision of financial matters.

(3)(a) A qualifying agent who has been designated by a joint agreement as the sole primary qualifying agent for a business organization may terminate this ~~his~~ status as such by giving actual notice to the business organization, to the board, and to all secondary qualifying agents of his or her intention to terminate this ~~his~~ status. The ~~His~~ notice to the board shall

include proof satisfactory to the board that he or she has given the notice required in this paragraph. The status of the qualifying agent shall cease upon the designation of a new primary qualifying agent or 60 days after satisfactory notice of termination has been provided to the board, whichever first occurs. If no new primary qualifying agent has been designated within 60 days, all secondary qualifying agents for the business organization shall become primary qualifying agents, unless the joint agreement specifies that one or more of them shall become sole qualifying agents under such circumstances, in which case only they shall become sole qualifying agents.

(b) Any change in the status of a qualifying agent is prospective only. A qualifying agent is not responsible for his or her predecessor's actions, but is responsible, even after a change in status, for matters for which he or she was responsible while in a particular status.

Section 497. Section 489.523, Florida Statutes, is amended to read:

489.523 Emergency registration upon death of contractor.—If an incomplete contract exists at the time of death of a contractor, the contract may be completed by any person even though not certified. The person shall notify the appropriate board, within 30 days after the death of the contractor, of his or her name and address, ~~his~~ knowledge of the contract, and ~~his~~ ability to complete it. If the board approves, he or she may proceed with the contract. The board shall then issue an emergency registration which shall expire upon the completion of the contract. For purposes of this section, and upon written approval of the board, an incomplete contract may be one which has been awarded to, or entered into by, the contractor before his or her death, or on which he or she was the low bidder and the contract is subsequently awarded to him or her, regardless of whether any actual work has commenced under the contract before the contractor's ~~his~~ death.

Section 498. Paragraphs (b) and (c) of subsection (1) and paragraphs (d) and (k) of subsection (3) of section 489.531, Florida Statutes, are amended to read:

489.531 Prohibitions; penalties.—

(1) A person may not:

(b) Use the name or title “electrical contractor” or “alarm system contractor” or words to that effect, or advertise himself or herself or a business organization as available to practice electrical or alarm system contracting, when the person is not then the holder of a valid certification or registration issued pursuant to this part;

(c) Present as his or her own the certificate or registration of another;

(3) Each county or municipality may, at its option, designate one or more of its code enforcement officers, as defined in chapter 162, to enforce, as set out in this subsection, the provisions of subsection (1) against persons who engage in activity for which county or municipal certification is required.

(d) The act for which the citation is issued shall be ceased upon receipt of the citation; and the person charged with the violation shall elect either

to correct the violation and pay the civil penalty in the manner indicated on the citation or, within 10 days of receipt of the citation, exclusive of weekends and legal holidays, request an administrative hearing before the enforcement or licensing board or designated special master to appeal the issuance of the citation by the code enforcement officer.

1. Hearings shall be held before an enforcement or licensing board or designated special master as established by s. 162.03(2) and such hearings shall be conducted pursuant to ss. 162.07 and 162.08.

2. Failure of a violator to appeal the decision of the code enforcement officer within the time period set forth in this paragraph shall constitute a waiver of the violator's right to an administrative hearing. A waiver of the right to administrative hearing shall be deemed an admission of the violation and penalties may be imposed accordingly.

3. If the person issued the citation, or his or her designated representative, shows that the citation is invalid or that the violation has been corrected prior to appearing before the enforcement or licensing board or designated special master, the enforcement or licensing board or designated special master shall dismiss the citation unless the violation is irreparable or irreversible.

4. Each day a willful, knowing violation continues shall constitute a separate offense under the provisions of this subsection.

(k) All notices required by this subsection shall be provided to the alleged violator by certified mail, return receipt requested; by hand delivery by the sheriff or other law enforcement officer or code enforcement officer; by leaving the notice at the violator's usual place of residence with some person of his or her family above 15 years of age and informing such person of the contents of the notice; or by including a hearing date within the citation.

Section 499. Section 489.532, Florida Statutes, is amended to read:

489.532 Contracts performed by unlicensed contractors unenforceable.— As a matter of public policy, contracts entered into on or after October 1, 1990, and performed in full or in part by any contractor who fails to obtain or maintain his or her license in accordance with this part shall be unenforceable in law, and the court in its discretion may extend this provision to equitable remedies. However, in the event the contractor obtains or reinstates the ~~his~~ license the provisions of this section shall no longer apply.

Section 500. Paragraph (e) of subsection (3), subsection (4), and paragraphs (a) and (b) of subsection (8) of section 489.537, Florida Statutes, are amended to read:

489.537 Application of this part.—

(3) Nothing in this act limits the power of a municipality or county:

(e)1. To refuse to issue permits or issue permits with specific conditions to a contractor who has committed multiple violations, when he or she has

been disciplined for each of them by the board and when each disciplinary action has involved revocation or suspension of a license, imposition of an administrative fine of at least \$1,000, or probation.

2. To issue permits with specific conditions to a contractor who, within the previous 12 months, has had final action taken against him or her, by the department or by a local board or agency which licenses contractors and has reported the action pursuant to paragraph (5)(c), for engaging in the business or acting in the capacity of a contractor without a license.

(4) Any official authorized to issue building or other related permits shall ascertain that the applicant contractor is certified or registered and duly qualified according to any local requirements in the area where the construction is to take place before issuing the permit. The evidence shall consist only of the exhibition to him or her of current evidence of proper certification or registration and local qualification.

(8)(a) Any registered electrical contractor or any locally licensed alarm system contractor shall be issued the appropriate category of alarm system contractor registration, if the individual has filed with the board evidence that he or she has:

1. Successfully complied with local written or oral examination requirements for the current local license he or she holds, or, if no examination requirement exists in the local jurisdiction, has scored at least 75 percent on an examination which is substantially equivalent to the examination approved by the board for certification in the appropriate category.

2. Current liability insurance coverage to engage in the installation, monitoring, maintenance, servicing, or upgrading of alarm systems.

(b) Any person operating pursuant to the exemption formerly established in s. 489.503(11) shall be issued a registered alarm system contractor II registration as defined in s. 489.505, if the individual has filed evidence that he or she has been engaged in business as an alarm system contractor for at least 3 consecutive years prior to the time of making application and prior to October 1, 1994. Evidence of being engaged in business as an alarm system contractor shall be demonstrated by the submission of:

1. An electrical contractor's license, alarm system contractor's license, or occupational license for each of the 3 years he or she was engaged in alarm system contracting. The requirements in this subparagraph shall not apply when providing evidence of work in a local jurisdiction which does not require an occupational license for the work in question.

2. Proof that he or she has current liability insurance coverage to engage in the installation, monitoring, maintenance, servicing, or upgrading of alarm systems.

3. A representative list of alarm system work he or she completed during the 3 years he or she was engaged in alarm system contracting.

Section 501. Section 489.538, Florida Statutes, is amended to read:

489.538 Authority of licensed job scope.—A licensee under this part need not have a license under part I to perform work within the scope of his or her license under this part.

Section 502. Section 490.0111, Florida Statutes, is amended to read:

490.0111 Sexual misconduct.—Sexual misconduct by any person licensed under this chapter, in the practice of her or his profession, is prohibited. Sexual misconduct shall be defined by rule.

Section 503. Subsections (1) and (2) of section 490.012, Florida Statutes, are amended to read:

490.012 Violations; penalties; injunction.—

(1)(a) No person shall hold herself or himself out by any title or description incorporating the words, or permutations of them, “psychologist,” “psychology,” “psychological,” “psychodiagnostic,” or “school psychologist,” or describe any test or report as psychological, unless such person holds a valid active license under this chapter or is exempt from the provisions of this chapter.

(b) No person shall hold herself or himself out by any title or description incorporating the word, or a permutation of the word, “psychotherapy” unless such person holds a valid, active license under chapter 458, chapter 459, chapter 490, or chapter 491, or such person is certified as an advanced registered nurse practitioner, pursuant to s. 464.012, who has been determined by the Board of Nursing as a specialist in psychiatric/mental health nursing.

(c) No person licensed pursuant to this chapter shall hold herself or himself out by any title or description which indicates licensure other than that which has been granted to her or him.

(2) A licensed psychologist shall include the words “licensed psychologist” and her or his license number on all professional advertisements, including, but not limited to, advertisements in any newspaper, magazine, other print medium, airwave or broadcast transmission, or phone directory listing purchased by or on behalf of a person licensed according to this chapter.

Section 504. Subsection (5) of section 490.0121, Florida Statutes, is amended to read:

490.0121 Licensed school psychologists; private sector services.—It shall not be a violation of s. 112.313(7) for a licensed school psychologist employed by a school district to provide private sector services to students within that district if:

(5) The school psychologist does not use his or her position within a school district to offer private services or to promote a private practice.

Section 505. Paragraphs (a), (b), (e), and (f) of subsection (2) and subsection (3) of section 490.014, Florida Statutes, are amended to read:

490.014 Exemptions.—

(2) No person shall be required to be licensed under this chapter who:

(a) Is a salaried employee of a government agency; developmental services program, mental health, alcohol, or drug abuse facility operating pursuant to chapter 393, chapter 394, or chapter 397; subsidized child care program, subsidized child care case management, or child care resource and referral program, operating pursuant to chapter 402; child-placing or child-caring agency licensed pursuant to chapter 409; domestic violence center certified pursuant to chapter 415; accredited academic institution; or research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution.

(b) Is a salaried employee of a private, nonprofit organization providing counseling services to children, youth, and families, if such services are provided for no charge, if such employee is performing duties for which he or she was trained and hired.

(c) Is not a resident of the state but offers services in this state, provided:

1. Such services are performed for no more than 5 days in any month and no more than 15 days in any calendar year; and

2. Such nonresident is licensed or certified by a state or territory of the United States, or by a foreign country or province, the standards of which were, at the date of his or her licensure or certification, equivalent to or higher than the requirements of this chapter in the opinion of the department or, in the case of psychologists, in the opinion of the board.

(f) Is a rabbi, priest, minister, or member of the clergy ~~clergyman~~ of any religious denomination or sect when engaging in activities which are within the scope of the performance of his or her regular or specialized ministerial duties and for which no separate charge is made, or when such activities are performed, with or without charge, for or under the auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination, or sect, and when the person rendering service remains accountable to the established authority thereof.

(3) No provision of this chapter shall be construed to limit the practice of any individual who solely engages in behavior analysis so long as he or she does not hold himself or herself out to the public as possessing a license issued pursuant to this chapter or use a title protected by this chapter.

Section 506. Section 490.0141, Florida Statutes, is amended to read:

490.0141 Practice of hypnosis.—A licensed psychologist who is qualified as determined by the board may practice hypnosis as defined in s. 456.32(1). The provisions of this chapter may not be interpreted to limit or affect the right of any person qualified pursuant to chapter 456 to practice hypnosis pursuant to that chapter or to practice hypnosis for nontherapeutic purposes, so long as such person does not hold herself or himself out to the

public as possessing a license issued pursuant to this chapter or use a title protected by this chapter.

Section 507. Section 490.0143, Florida Statutes, is amended to read:

490.0143 Practice of sex therapy.—Only a person licensed by this chapter who meets the qualifications set by the board may hold himself or herself out as a sex therapist. The board shall define these qualifications by rule. In establishing these qualifications, the board may refer to the sexual disorder and sexual dysfunction sections of the most current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association or other relevant publications.

Section 508. Section 490.0147, Florida Statutes, is amended to read:

490.0147 Confidentiality and privileged communications.—Any communication between any person licensed under this chapter and her or his patient or client shall be confidential. This privilege may be waived under the following conditions:

(1) When the person licensed under this chapter is a party defendant to a civil, criminal, or disciplinary action arising from a complaint filed by the patient or client, in which case the waiver shall be limited to that action.

(2) When the patient or client agrees to the waiver, in writing, or when more than one person in a family is receiving therapy, when each family member agrees to the waiver, in writing.

(3) When there is a clear and immediate probability of physical harm to the patient or client, to other individuals, or to society and the person licensed under this chapter communicates the information only to the potential victim, appropriate family member, or law enforcement or other appropriate authorities.

Section 509. Subsection (1) of section 491.006, Florida Statutes, is amended to read:

491.006 Licensure or certification by endorsement.—

(1) The department shall license or grant a certificate to a person in a profession regulated by this chapter who, upon applying to the department and remitting the appropriate fee, demonstrates to the board that he or she:

(a) Has demonstrated, in a manner designated by rule of the board, knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling.

(b)1. Holds an active valid license to practice and has actively practiced the profession for which licensure is applied in another state for 3 of the last 5 years immediately preceding licensure.

2. Meets the education requirements of this chapter for the profession for which licensure is applied.

3. Has passed a substantially equivalent licensing examination in another state.

4. Holds a license in good standing, is not under investigation for an act which would constitute a violation of this chapter, and has not been found to have committed any act which would constitute a violation of this chapter.

Section 510. Section 491.0111, Florida Statutes, is amended to read:

491.0111 Sexual misconduct.—Sexual misconduct by any person licensed or certified under this chapter, in the practice of her or his profession, is prohibited. Sexual misconduct shall be defined by rule.

Section 511. Paragraphs (a), (b), (c), (d), and (e) of subsection (1) and subsection (2) of section 491.012, Florida Statutes, are amended to read:

491.012 Violations; penalty; injunction.—

(1) It is unlawful and a violation of this chapter for any person to:

(a) Use the following titles or any combination thereof, unless she or he holds a valid active license as a clinical social worker issued pursuant to this chapter:

1. “Licensed clinical social worker.”
2. “Clinical social worker.”
3. “Licensed social worker.”
4. “Psychiatric social worker.”
5. “Psychosocial worker.”

(b) Use the following titles or any combination thereof, unless she or he holds a valid active license as a marriage and family therapist issued pursuant to this chapter:

1. “Licensed marriage and family therapist.”
2. “Marriage and family therapist.”
3. “Marriage counselor.”
4. “Marriage consultant.”
5. “Family therapist.”
6. “Family counselor.”
7. “Family consultant.”

(c) Use the following titles, unless she or he holds a valid active license as a mental health counselor:

1. "Licensed mental health counselor."
2. "Mental health counselor."
3. "Mental health therapist."
4. "Mental health consultant."

(d) Use the terms psychotherapist or sex therapist, unless such person is licensed pursuant to this chapter or chapter 490, or is certified under s. 464.012 as an advanced registered nurse practitioner in the category of psychiatric mental health and the use of such terms is within the scope of her or his practice based on education, training, and licensure.

(e) Present as her or his own the clinical social work, marriage and family therapy, or mental health counseling license of another.

(2) It is unlawful and a violation of this chapter for any person to describe her or his services using the following terms or any derivative thereof, unless such person holds a valid active license under this chapter or chapter 490, or is certified as an advanced registered nurse practitioner in the category of psychiatric mental health under s. 464.012, and the use of such terms is within the scope of her or his practice based on education, training, and licensure:

- (a) "Psychotherapy."
- (b) "Sex therapy."
- (c) "Sex counseling."
- (d) "Clinical social work."
- (e) "Psychiatric social work."
- (f) "Marriage and family therapy."
- (g) "Marriage and family counseling."
- (h) "Marriage counseling."
- (i) "Family counseling."
- (j) "Mental health counseling."

Section 512. Subsection (3), paragraphs (a) and (b) of subsection (4), and subsection (5) of section 491.014, Florida Statutes, are amended to read:

491.014 Exemptions.—

(3) No provision of this chapter shall be construed to limit the performance of activities of a rabbi, priest, minister, or member of the clergy ~~clergyman~~ of any religious denomination or sect, or use of the terms "Christian counselor" or "Christian clinical counselor" when the activities are within the scope of the performance of his or her regular or specialized ministerial

duties and no compensation is received by him or her, or when such activities are performed, with or without compensation, by a person for or under the auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination, or sect, and when the person rendering service remains accountable to the established authority thereof.

(4) No person shall be required to be licensed or certified under this chapter who:

(a) Is a salaried employee of a government agency; developmental services program, mental health, alcohol, or drug abuse facility operating pursuant to chapter 393, chapter 394, or chapter 397; subsidized child care program, subsidized child care case management, or child care resource and referral program, operating pursuant to chapter 402; child-placing or child-caring agency licensed pursuant to chapter 409; domestic violence center certified pursuant to chapter 415; accredited academic institution; or research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution.

(b) Is a salaried employee of a private, nonprofit organization providing counseling services to children, youth, and families, if such services are provided for no charge, if such employee is performing duties for which he or she was trained and hired.

(5) No provision of this chapter shall be construed to limit the practice of any individual who solely engages in behavior analysis so long as he or she does not hold himself or herself out to the public as possessing a license issued pursuant to this chapter or use a title protected by this chapter.

Section 513. Section 491.0141, Florida Statutes, is amended to read:

491.0141 Practice of hypnosis.—A person licensed under this chapter who is qualified as determined by the board may practice hypnosis as defined in s. 456.32(1). The provisions of this chapter may not be interpreted to limit or affect the right of any person qualified pursuant to chapter 456 to practice hypnosis pursuant to that chapter or to practice hypnosis for nontherapeutic purposes, so long as such person does not hold herself or himself out to the public as possessing a license issued pursuant to this chapter or use a title protected by this chapter.

Section 514. Section 491.0143, Florida Statutes, is amended to read:

491.0143 Practice of sex therapy.—Only a person licensed by this chapter who meets the qualifications set by the board may hold herself or himself out as a sex therapist. The board shall define these qualifications by rule. In establishing these qualifications, the board may refer to the sexual disorder and sexual dysfunction sections of the most current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association or other relevant publications.

Section 515. Section 491.0147, Florida Statutes, is amended to read:

491.0147 Confidentiality and privileged communications.—Any communication between any person licensed or certified under this chapter and her or his patient or client shall be confidential. This secrecy may be waived under the following conditions:

(1) When the person licensed or certified under this chapter is a party defendant to a civil, criminal, or disciplinary action arising from a complaint filed by the patient or client, in which case the waiver shall be limited to that action.

(2) When the patient or client agrees to the waiver, in writing, or, when more than one person in a family is receiving therapy, when each family member agrees to the waiver, in writing.

(3) When there is a clear and immediate probability of physical harm to the patient or client, to other individuals, or to society and the person licensed or certified under this chapter communicates the information only to the potential victim, appropriate family member, or law enforcement or other appropriate authorities.

Section 516. Subsection (1) of section 491.0149, Florida Statutes, is amended to read:

491.0149 Display of license; use of professional title on promotional materials.—

(1) A person licensed under this chapter as a clinical social worker, marriage and family therapist, or mental health counselor, or certified as a master social worker shall conspicuously display the valid license issued by the department or a true copy thereof at each location at which the licensee practices his or her profession.

Section 517. Subsections (3), (4), and (7) of section 492.102, Florida Statutes, are amended to read:

492.102 Definitions.—For the purposes of ss. 492.101-492.1165, unless the context clearly requires otherwise:

(3) “Geology” means the science which includes the treatment of the earth and its origin and history, in general; the investigation of the earth’s crust and interior and the solids and fluids, including all surface and underground waters, and gases which compose the earth; the study of the natural agents, forces, and processes which cause changes in the earth; and the utilization of this knowledge of the earth and its solids, fluids, and gases, and their collective properties and processes, for the benefit of humankind ~~mankind~~.

(4) “Geologist” means an individual who, by reason of her or his knowledge of geology, soils, mathematics, and the physical and life sciences, acquired by education and practical experience, is capable of practicing the science of geology.

(7) “Practice of professional geology” means the performance of, or offer to perform, geological services, including, but not limited to, consultation,

investigation, evaluation, planning, and geologic mapping, but not including mapping as prescribed in chapter 472, relating to geological work, except as specifically exempted by ss. 492.101-492.1165. Any person who practices any specialty branch of the profession of geology, or who by verbal claim, sign, advertisement, letterhead, card, or any other means represents herself or himself to be a professional geologist, or who through the use of some title implies that she or he is a professional geologist or that she or he is licensed under ss. 492.101-492.1165, or who holds herself or himself out as able to perform or does perform any geological services or work recognized as professional geology, shall be construed to be engaged in the practice of professional geology.

Section 518. Subsection (1) of section 492.103, Florida Statutes, is amended to read:

492.103 Board of Professional Geologists.—

(1) There is created in the Department of Business and Professional Regulation the Board of Professional Geologists. The board shall consist of seven members, five of whom shall be professional geologists, and two of whom shall be laypersons who are not and have never been geologists or members of any closely related profession or occupation. The chief of the Bureau of Geology in the Department of Environmental Protection, or his or her designee, shall serve as an ex officio member of the board. Members shall be appointed for 4-year terms.

Section 519. Paragraph (e) of subsection (1) of section 492.105, Florida Statutes, is amended to read:

492.105 Licensure by examination; requirements; fees.—

(1) Any person desiring to be licensed as a professional geologist shall apply to the department to take the licensure examination. The written licensure examination shall be designed to test an applicant's qualifications to practice professional geology, and shall include such subjects as will tend to ascertain the applicant's knowledge of the theory and the practice of professional geology and may include such subjects as are taught in curricula of accredited colleges and universities. The department shall examine each applicant who the board certifies:

(e) Has at least 7 years of professional geological work experience, which shall include a minimum of 3 years of professional geological work under the supervision of a licensed or qualified geologist or professional engineer registered under chapter 471 as qualified in the field or discipline of professional engineering involved; or have a minimum of 5 accumulative years' experience in responsible charge of geological work. The following criteria of education and experience qualify, as specified, toward accumulation of the required 7 years of professional geological work:

1. Each year of undergraduate study in the geological sciences shall count as $\frac{1}{2}$ year of the experience requirement, up to a maximum of 2 years, and each year of graduate study shall count as 1 year of the experience requirement.

2. Credit for undergraduate study, graduate study, and graduate courses, individually or in any combination thereof, shall in no case exceed a total of 2 years toward meeting the requirements for at least 7 years of professional geological work.

3. Full-time teaching or research in the geological sciences at the college level shall be credited year for year toward meeting the requirement in this category.

4. The ability of the applicant shall have been demonstrated by his or her having performed the work in a responsible position as determined by the board.

Section 520. Subsection (1) of section 492.108, Florida Statutes, is amended to read:

492.108 Licensure by endorsement; requirements; fees.—

(1) The department shall issue a license by endorsement to any applicant who, upon applying to the department and remitting an application fee, has been certified by the board that he or she:

(a) Has met the qualifications for licensure in s. 492.105(1)(b)-(e).

(b) Is the holder of an active license in good standing in a state, trust, territory, or possession of the United States.

(c) Was licensed through written examination in at least one state, trust, territory, or possession of the United States, the examination requirements of which have been approved by the board as substantially equivalent to or more stringent than those of this state, and has received a score on such examination which is equal to or greater than the score required by this state for licensure by examination.

(d) Has taken and successfully passed the laws and rules portion of the examination required for licensure as a professional geologist in this state.

Section 521. Subsection (3) of section 492.109, Florida Statutes, is amended to read:

492.109 Renewal of license; fees.—

(3) The licensee must have on file with the department the address of her or his primary place of practice within this state prior to engaging in that practice. Prior to changing the address of her or his primary place of practice, whether or not within this state, the licensee must notify the department of the address of the ~~his~~ new primary place of practice.

Section 522. Subsections (2) and (4) of section 492.111, Florida Statutes, are amended to read:

492.111 Practice of professional geology by a firm, corporation, or partnership; certificate of authorization.—The practice of, or offer to practice, professional geology by individual professional geologists licensed under the

provisions of ss. 492.101-492.1165 through a firm, corporation, or partnership offering geological services to the public through individually licensed professional geologists as agents, employees, officers, or partners thereof is permitted subject to the provisions of ss. 492.101-492.1165, provided that:

(2) The firm, corporation, or partnership has been issued a certificate of authorization by the department as provided in ss. 492.101-492.1165. For purposes of this section, a certificate of authorization shall be required of any firm, corporation, partnership, association, or person practicing under a fictitious name and offering geological services to the public; except that, when an individual is practicing geology in his or her own name, he or she shall not be required to obtain a certificate of authorization under this section. Such certificate of authorization shall be renewed every 2 years.

(4) The fact that a licensed geologist practices through a corporation or partnership shall not relieve the registrant from personal liability for negligence, misconduct, or wrongful acts committed by him or her. Partnership and all partners shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, or partners while acting in a professional capacity. Any officer, agent, or employee of a corporation shall be personally liable and accountable only for negligent acts, wrongful acts, or misconduct committed by him or her or committed by any person under his or her direct supervision and control, while rendering professional services on behalf of the corporation. The personal liability of a shareholder of a corporation, in his or her capacity as shareholder, shall be no greater than that of a shareholder-employee of a corporation incorporated under chapter 607. The corporation shall be liable up to the full value of its property for any negligent acts, wrongful acts, or misconduct committed by any of its officers, agents, or employees while they are engaged on behalf of the corporation in the rendering of professional services.

Section 523. Paragraph (c) of subsection (1) of section 492.112, Florida Statutes, is amended to read:

492.112 Prohibitions; penalties.—

(1) A person may not knowingly:

(c) Present as her or his own the license of another.

Section 524. Paragraph (j) of subsection (1) of section 492.113, Florida Statutes, is amended to read:

492.113 Disciplinary proceedings.—

(1) The following acts constitute grounds for which the disciplinary actions in subsection (3) may be taken:

(j) Affixing or permitting to be affixed his or her name to geological papers, reports, or documents that were not prepared by him or her or under his or her responsible supervision, direction, or control.

Section 525. Subsection (5) of section 492.116, Florida Statutes, is amended to read:

492.116 Exemptions.—The following persons are specifically exempted from ss. 492.101-492.1165, provided, however, that all final geological papers or documents which have been prepared by a person exempt under subsection (1), subsection (2), subsection (3), or subsection (4) for delivery to any person for public record with the state shall be dated and bear the signature and seal of the professional geologist or professional geologists who prepared or approved them:

(5) A person employed on a full-time basis as a geologist by an employer engaged in the business of developing, mining, or treating ores, other minerals, and petroleum resources if that person engages in geological practice exclusively for and as an employee of such employer and does not hold herself or himself out and is not held out as available to perform any geological services for persons other than her or his employer.

Section 526. Subsection (8) of section 493.6104, Florida Statutes, is amended to read:

493.6104 Advisory council.—

(8) The director of the Division of Licensing or the director's ~~his~~ designee shall serve, in a nonvoting capacity, as secretary to the council. The Division of Licensing shall provide all administrative and legal support required by the council in the conduct of its official business.

Section 527. Paragraph (a) of subsection (1), paragraphs (a), (b), (c), (d), (e), (f), (h), and (i) of subsection (3), and subsections (5), (6), and (9) of section 493.6105, Florida Statutes, are amended to read:

493.6105 Initial application for license.—

(1) Each individual, partner, or principal officer in a corporation, shall file with the department a complete application accompanied by an application fee not to exceed \$60, except that the applicant for a Class "D" or Class "G" license shall not be required to submit an application fee. The application fee shall not be refundable.

(a) The application submitted by any individual, partner, or corporate officer shall be approved by the department prior to that individual, partner, or corporate officer assuming his or her duties.

(3) The application shall contain the following information concerning the individual signing same:

(a) ~~His~~ Name and any aliases.

(b) ~~His~~ Age and date of birth.

(c) ~~His~~ Place of birth.

(d) ~~His~~ Social security number or alien registration number, whichever is applicable.

(e) ~~His~~ Present residence address and his or her residence addresses within the 5 years immediately preceding the submission of the application.

(f) His Occupations held presently and within the 5 years immediately preceding the submission of the application.

(h) A statement whether he or she has ever been adjudicated incompetent under chapter 744.

(i) A statement whether he or she has ever been committed to a mental institution under chapter 394.

(5) In addition to the application requirements outlined under subsection (3), the applicant for a Class "C," Class "E," Class "M," Class "MA," Class "MB," or Class "MR" license shall include a statement on a form provided by the department of the experience which he or she believes will qualify him or her for such license.

(6) In addition to the requirements outlined in subsection (3), an applicant for a Class "G" license shall satisfy minimum training criteria for firearms established by rule of the department, which training criteria shall include, but is not limited to, 24 hours of range and classroom training taught and administered by a firearms instructor who has been licensed by the department; however, no more than 8 hours of such training shall consist of range training. The department shall, effective October 1, 1992, increase the minimum number of hours of firearms training required for Class "G" licensure by 4 hours, and shall subsequently increase the training requirement by 4 hours every 2 years, up to a maximum requirement of 48 hours. If the applicant can show proof that he or she is an active law enforcement officer currently certified under the Criminal Justice Standards and Training Commission, or if the applicant submits one of the certificates specified in paragraph (7)(a), the department may waive the firearms training requirement referenced above.

(9) Upon submission of a complete application, a Class "CC," Class "C," Class "D," Class "EE," Class "E," Class "M," Class "MA," Class "MB," or Class "MR" applicant may commence employment or appropriate duties for a licensed agency or branch office. However, the Class "C" or Class "E" applicant must work under the direction and control of a sponsoring licensee while his or her application is being processed. If the department denies application for licensure, the employment of the applicant must be terminated immediately, unless he or she performs only unregulated duties.

Section 528. Paragraphs (c), (d), and (e) of subsection (1) and subsection (3) of section 493.6106, Florida Statutes, are amended to read:

493.6106 License requirements; posting.—

(1) Each individual licensed by the department must:

(c) Not have been adjudicated incapacitated under s. 744.331 or a similar statute in another state, unless her or his capacity has been judicially restored; not have been involuntarily placed in a treatment facility for the mentally ill under chapter 394 or a similar statute in any other state, unless her or his competency has been judicially restored; and not have been diagnosed as having an incapacitating mental illness, unless a psychologist or

psychiatrist licensed in this state certifies that she or he does not currently suffer from the mental illness.

(d) Not be a chronic and habitual user of alcoholic beverages to the extent that her or his normal faculties are impaired; not have been committed under chapter 397, former chapter 396, or a similar law in any other state; not have been found to be a habitual offender under s. 856.011(3) or a similar law in any other state; and not have had two or more convictions under s. 316.193 or a similar law in any other state within the 3-year period immediately preceding the date the application was filed, unless the individual he establishes that she or he is not currently impaired and has successfully completed a rehabilitation course.

(e) Not have been committed for controlled substance abuse or have been found guilty of a crime under chapter 893 or a similar law relating to controlled substances in any other state within a 3-year period immediately preceding the date the application was filed, unless the individual he establishes that she or he is not currently abusing any controlled substance and has successfully completed a rehabilitation course.

(3) Each Class “C,” Class “CC,” Class “D,” Class “DI,” Class “E,” Class “EE,” Class “G,” Class “K,” Class “M,” Class “MA,” Class “MB,” Class “MR,” or Class “RI” licensee shall notify the division in writing within 10 days of a change in her or his residence or mailing address.

Section 529. Subsection (5) of section 493.6107, Florida Statutes, is amended to read:

493.6107 Fees.—

(5) Payment of any license fee provided for under this chapter authorizes the licensee to practice his or her profession anywhere in this state without obtaining any additional license, permit, registration, or identification card, any municipal or county ordinance or resolution to the contrary notwithstanding. However, an agency may be required to obtain a city and county occupational license in each city and county where the agency maintains a physical office.

Section 530. Paragraph (b) of subsection (2) of section 493.6109, Florida Statutes, is amended to read:

493.6109 Reciprocity.—

(2) The rules authorized in subsection (1) may be promulgated only if:

(b) The applicant has engaged in licensed activities for at least 1 year in the other state or territory with no disciplinary action against him or her.

Section 531. Subsections (3), (4), and (6) of section 493.6113, Florida Statutes, are amended to read:

493.6113 Renewal application for licensure.—

(3) Each licensee shall be responsible for renewing his or her license on or before its expiration by filing with the department an application for renewal accompanied by payment of the prescribed license fee.

(a) Each Class “A,” Class “B,” or Class “R” licensee shall additionally submit on a form prescribed by the department a certification of insurance which evidences that the licensee maintains coverage as required under s. 493.6110.

(b) Each Class “G” licensee shall additionally submit proof that he or she has received during each year of the license period a minimum of 4 hours of firearms recertification training taught by a Class “K” licensee and has complied with such other health and training requirements which the department may adopt by rule. If proof of a minimum of 4 hours of annual firearms recertification training cannot be provided, the renewal applicant shall complete the minimum number of hours of range and classroom training required at the time of initial licensure.

(c) Each Class “DS” or Class “RS” licensee shall additionally submit the current curriculum, examination, and list of instructors.

(4) A licensee who fails to file a renewal application on or before its expiration must renew his or her license by fulfilling the applicable requirements of subsection (3) and by paying a late fee equal to the amount of the license fee.

(6) A renewal applicant shall not perform any activity regulated by this chapter between the date of expiration and the date of renewal of his or her license.

Section 532. Section 493.6114, Florida Statutes, is amended to read:

493.6114 Cancellation or inactivation of license.—

(1) In the event the licensee desires to cancel her or his license, she or he shall notify the department in writing and return the ~~his~~ license to the department within 10 days of the date of cancellation.

(2) The department, at the written request of the licensee, may place her or his license in inactive status. A license may remain inactive for a period of 3 years, at the end of which time, if the license has not been renewed, it shall be automatically canceled. If the license expires during the inactive period, the licensee shall be required to pay license fees and, if applicable, show proof of insurance or proof of firearms training before the license can be made active. No late fees shall apply when a license is in inactive status.

Section 533. Subsections (3), (4), (6), (8), and (9) and paragraph (b) of subsection (12) of section 493.6115, Florida Statutes, are amended to read:

493.6115 Weapons and firearms.—

(3) No employee shall carry or be furnished a weapon or firearm unless the carrying of a weapon or firearm is required by her or his duties, nor shall an employee carry a weapon or firearm except in connection with those

duties. When carried pursuant to this subsection, the weapon or firearm shall be encased in view at all times except as provided in subsection (4).

(4) A Class "C" or Class "CC" licensee 21 years of age or older who has also been issued a Class "G" license may carry, in the performance of her or his duties, a concealed firearm. A Class "D" licensee 21 years of age or older who has also been issued a Class "G" license may carry a concealed firearm in the performance of her or his duties under the conditions specified in s. 493.6305(2). The Class "G" license shall clearly indicate such authority. The authority of any such licensee to carry a concealed firearm shall be valid throughout the state, in any location, while performing services within the scope of the license.

(6) Unless otherwise approved by the department, the only firearm a Class "CC," Class "D," Class "M," or Class "MB" licensee who has been issued a Class "G" license may carry is a .38 or .357 caliber revolver with factory .38 caliber ammunition only. In addition to any other firearm approved by the department, a Class "C" and Class "MA" licensee who has been issued a Class "G" license may carry a .38 caliber revolver; or a .380 caliber or 9 millimeter semiautomatic pistol; or a .357 caliber revolver with .38 caliber ammunition only. No licensee may carry more than two firearms upon her or his person when performing her or his duties. A licensee may only carry a firearm of the specific type and caliber with which she or he is qualified pursuant to the firearms training referenced in subsection (8) or s. 493.6113(3)(b).

(8) A Class "G" licensee must satisfy the minimum training criteria established by rule of the department, which criteria must include, but need not be limited to, 28 hours of range and classroom training taught and administered by a Class "K" licensee; however, no more than 8 hours of such training shall consist of range training. If the applicant can show proof that she or he is an active law enforcement officer currently certified under the Criminal Justice Standards and Training Commission, or if the applicant submits one of the certifications specified under s. 493.6105(7)(a), the department may waive the foregoing firearms training requirements.

(9) Whenever a Class "G" licensee discharges her or his firearm in the course of her or his duties, the Class "G" licensee ~~he~~ and the agency by which she or he is employed shall, within 5 working days, submit to the department an explanation describing the nature of the incident, the necessity for using the firearm, and a copy of any report prepared by a law enforcement agency. The department may revoke or suspend the Class "G" licensee's license and the licensed agency's agency license if this requirement is not met.

(12) The department may issue a temporary Class "G" license, on a case-by-case basis, if:

(b) The applicant has submitted a complete application for a Class "G" license, with a notation that she or he is seeking a temporary Class "G" license.

Section 534. Paragraphs (c), (d), (i), (p), (q), and (u) of subsection (1), subsection (4), and subsection (6) of section 493.6118, Florida Statutes, are amended to read:

493.6118 Grounds for disciplinary action.—

(1) The following constitute grounds for which disciplinary action specified in subsection (2) may be taken by the department against any licensee, agency, or applicant regulated by this chapter, or any unlicensed person engaged in activities regulated under this chapter.

(c) Conviction of a crime that directly relates to the business for which the license is held or sought, regardless of whether imposition of sentence was suspended. A conviction based on a plea of *nolo contendere* creates a rebuttable presumption of guilt to the underlying criminal charges, and the department shall allow the individual being disciplined or denied an application for a license to present any mitigating evidence relevant to the reason for, and the circumstances surrounding, his or her plea.

(d) A false statement by the licensee that any individual is or has been in his or her employ.

(i) Impersonating, or permitting or aiding and abetting an employee to impersonate, a law enforcement officer or an employee of the state, the United States, or any political subdivision thereof by identifying himself or herself as a federal, state, county, or municipal law enforcement officer or official representative, by wearing a uniform or presenting or displaying a badge or credentials that would cause a reasonable person to believe that he or she is a law enforcement officer or that he or she has official authority, by displaying any flashing or warning vehicular lights other than amber colored, or by committing any act that is intended to falsely convey official status.

(p) Failure of any partner, principal corporate officer, or licensee to have his or her identification card in his or her possession while on duty.

(q) Failure of any licensee to have his or her license in his or her possession while on duty, as specified in s. 493.6111(1).

(u) In addition to the grounds for disciplinary action prescribed in paragraphs (a)-(t), Class “R” recovery agencies, Class “E” recovery agents, and Class “EE” recovery agent interns are prohibited from committing the following acts:

1. Recovering a motor vehicle, mobile home, or motorboat that has been sold under a conditional sales agreement or under the terms of a chattel mortgage before authorization has been received from the legal owner or mortgagee.

2. Charging for expenses not actually incurred in connection with the recovery, transportation, storage, or disposal of a motor vehicle, mobile home, motorboat, or personal property.

3. Using any motor vehicle, mobile home, or motorboat that has been repossessed, or using personal property obtained in a repossession, for the personal benefit of a licensee or an officer, director, partner, manager, or employee of a licensee.

4. Selling a motor vehicle, mobile home, or motorboat recovered under the provisions of this chapter, except with written authorization from the legal owner or the mortgagee thereof.

5. Failing to notify the police or sheriff's department of the jurisdiction in which the repossessed property is recovered within 2 hours after recovery.

6. Failing to remit moneys, collected in lieu of recovery of a motor vehicle, mobile home, or motorboat, to the client within 10 working days.

7. Failing to deliver to the client a negotiable instrument that is payable to the client, within 10 working days after receipt of such instrument.

8. Falsifying, altering, or failing to maintain any required inventory or records regarding disposal of personal property contained in or on a recovered motor vehicle, mobile home, or motorboat pursuant to s. 493.6404(1).

9. Carrying any weapon or firearm when he or she is on private property and performing duties under his or her license whether or not he or she is licensed pursuant to s. 790.06.

10. Soliciting from the legal owner the recovery of property subject to repossession after such property has been seen or located on public or private property if the amount charged or requested for such recovery is more than the amount normally charged for such a recovery.

11. Wearing, presenting, or displaying a badge in the course of repossessing a motor vehicle, mobile home, or motorboat.

(4) Notwithstanding the provisions of paragraph (1)(c) and subsection (2), if the applicant or licensee has been convicted of a felony in any state or of a crime against the United States which is designated as a felony, or convicted of an offense in any other state, territory, or country punishable by imprisonment for a term exceeding 1 year, the department shall deny the application or revoke the license unless and until civil rights have been restored by the State of Florida or by a state acceptable to Florida and a period of 10 years has expired since final release from supervision. Additionally, a Class "G" applicant who has been so convicted shall also have had the specific right to possess, carry, or use a firearm restored by the State of Florida. A conviction based on a plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charges, and the department shall allow the person being disciplined or denied an application for a license to present any mitigating evidence relevant to the reason for, and the circumstances surrounding, his or her plea. The department shall deny the application of any applicant who is currently serving a suspended sentence on a felony charge, or is on probation on a felony charge. The grounds for discipline or denial cited in this subsection shall be applied to any disqualifying criminal history regardless of the date of commission of

the underlying criminal charge. Such provision shall be applied retroactively and prospectively.

(6) The agency license and the approval or license of each officer, partner, or owner of the agency are automatically suspended upon entry of a final order imposing an administrative fine against the agency, until the fine is paid, if 30 calendar days have elapsed since the entry of the final order. All owners and corporate or agency officers or partners are jointly and severally liable for agency fines. Neither the agency license or the approval or license of any officer, partner, or owner of the agency may be renewed, nor may an application be approved if the owner, licensee, or applicant is liable for an outstanding administrative fine imposed under this chapter. An individual's approval or license becomes automatically suspended if a fine imposed against the individual or his or her agency is not paid within 30 days after the date of the final order, and remains suspended until the fine is paid. Notwithstanding the provisions of this subsection, an individual's approval or license may not be suspended nor may an application be denied when the licensee or the applicant has an appeal from a final order pending in any appellate court.

Section 535. Subsections (1) and (4) of section 493.6119, Florida Statutes, are amended to read:

493.6119 Divulging investigative information; false reports prohibited.—

(1) Except as otherwise provided by this chapter or other law, no licensee, or any employee of a licensee or licensed agency shall divulge or release to anyone other than her or his client or employer the contents of an investigative file acquired in the course of licensed investigative activity. However, the prohibition of this section shall not apply when the client for whom the information was acquired, or the client's his lawful representative, has alleged a violation of this chapter by the licensee, licensed agency, or any employee, or when the prior written consent of the client to divulge or release such information has been obtained.

(4) No licensee or any employer or employee of a licensee or licensed agency shall willfully make a false statement or report to her or his client or employer or an authorized representative of the department concerning information acquired in the course of activities regulated by this chapter.

Section 536. Subsection (4) of section 493.6120, Florida Statutes, is amended to read:

493.6120 Violations; penalty.—

(4) Any person who was an owner, officer, partner, or manager of a licensed agency at the time of any activity that is the basis for revocation of the agency or branch office license and who knew or should have known of the activity, shall have his or her personal licenses or approval suspended for 3 years and may not have any financial interest in or be employed in any capacity by a licensed agency during the period of suspension.

Section 537. Subsection (2) of section 493.6123, Florida Statutes, is amended to read:

493.6123 Publication to industry.—

(2) The department shall develop and make available to each Class “C,” Class “D,” and Class “E” licensee and all interns a pamphlet detailing in plain language the legal authority, rights, and obligations of his or her class of licensure. Within the pamphlet, the department should endeavor to present situations that the licensee may be expected to commonly encounter in the course of doing business pursuant to his or her specific license, and provide to the licensee information on his or her legal options, authority, limits to authority, and obligations. The department shall supplement this with citations to statutes and legal decisions, as well as a selected bibliography that would direct the licensee to materials the study of which would enhance his or her professionalism. The department shall provide a single copy of the appropriate pamphlet without charge to each individual to whom a license is issued, but may charge for additional copies to recover its publication costs. The pamphlet shall be updated every 2 years as necessary to reflect rule or statutory changes, or court decisions. Intervening changes to the regulatory situation shall be noticed in the industry newsletter issued pursuant to subsection (1).

Section 538. Paragraph (a) of subsection (2) of section 493.6304, Florida Statutes, is amended to read:

493.6304 Security officer school or training facility.—

(2) The application shall be signed and notarized and shall contain, at a minimum, the following information:

(a) The name and address of the school or training facility and, if the applicant is an individual, her or his name, address, and social security or alien registration number.

Section 539. Subsection (2) of section 493.6404, Florida Statutes, is amended to read:

493.6404 Property inventory; vehicle license identification numbers.—

(2) Within 5 working days after the date of a repossession, the Class “E” or Class “EE” licensee shall give written notification to the debtor of the whereabouts of personal effects or other property inventoried pursuant to this section. At least 45 days prior to disposing of such personal effects or other property the Class “E” or Class “EE” licensee shall, by certified mail, notify the debtor of the intent to dispose of said property. Should the debtor, or her or his lawful designee, appear to retrieve the personal property, prior to the date on which the Class “E” or Class “EE” licensee is allowed to dispose of the property, the licensee shall surrender the personal property to that individual upon payment of any reasonably incurred expenses for inventory and storage. If personal property is not claimed within 45 days of the notice of intent to dispose, the licensee may dispose of the personal property at her or his discretion, except that illegal items or contraband

shall be surrendered to a law enforcement agency, and the licensee shall retain a receipt or other proof of surrender as part of the inventory and disposal records she or he maintains.

Section 540. Paragraph (a) of subsection (2) of section 493.6406, Florida Statutes, is amended to read:

493.6406 Repossession services school or training facility.—

(2) The application shall be signed and notarized and shall contain, at a minimum, the following information:

(a) The name and address of the school or training facility and, if the applicant is an individual, his or her name, address, and social security or alien registration number.

Section 541. Subsection (3) of section 494.0013, Florida Statutes, is amended to read:

494.0013 Injunction to restrain violations.—

(3) In addition to all other means provided by law for the enforcement of any temporary restraining order, temporary injunction, or permanent injunction issued in any such court proceeding, the court has the power and jurisdiction, upon application of the department, to impound, and to appoint a receiver or administrator for, the property, assets, and business of the defendant, including, but not limited to, the books, records, documents, and papers appertaining thereto. Such receiver or administrator, when appointed and qualified, has all powers and duties as to custody, collection, administration, winding up, and liquidation of the property and business as are from time to time conferred upon him or her by the court. In any such action, the court may issue an order staying all pending suits and enjoining any further suits affecting the receiver's or administrator's custody or possession of the property, assets, and business, or the court, in its discretion and with the consent of the chief judge of the circuit, may require that all such suits be assigned to the circuit court judge who appoints the receiver or administrator.

Section 542. Paragraph (e) of subsection (1) of section 494.003, Florida Statutes, is amended to read:

494.003 Exemptions.—

(1) None of the following persons is subject to the requirements of ss. 494.003-494.0043:

(e) Any person licensed to practice law in this state, not actively and principally engaged in the business of negotiating loans secured by real property, when such person renders services in the course of her or his practice as an attorney at law.

Section 543. Subsection (3) of section 494.0031, Florida Statutes, is amended to read:

494.0031 Licensure as a mortgage brokerage business.—

(3) Notwithstanding the provisions of subsection (1), it is a ground for denial of licensure if the designated principal mortgage broker; any officer, director, partner, or joint venturer; any natural person owning a 10-percent or greater interest in the mortgage brokerage business; or any natural person who is the ultimate equitable owner of a 10-percent or greater interest in the mortgage brokerage business has committed any violation specified in ss. 494.001-494.0077 or has pending against him or her any criminal prosecution or administrative enforcement action, in any jurisdiction, which involves fraud, dishonest dealing, or any other act of moral turpitude.

Section 544. Subsection (4) of section 494.0033, Florida Statutes, is amended to read:

494.0033 Mortgage broker's license.—

(4) Notwithstanding the provisions of subsection (1), it is a ground for denial of licensure if the applicant has committed any violation specified in ss. 494.001-494.0077 or has pending against her or him any criminal prosecution or administrative enforcement action, in any jurisdiction, which involves fraud, dishonest dealing, or any other act of moral turpitude.

Section 545. Subsection (3) of section 494.0039, Florida Statutes, is amended to read:

494.0039 Principal place of business requirements.—

(3) Each mortgage brokerage business must prominently display its license at the principal place of business. Each branch office must prominently display its branch office permit. Each person licensed pursuant to s. 494.0033 must prominently display his or her license in the office where such person acts as a mortgage broker.

Section 546. Paragraphs (e), (f), and (h) of subsection (2) of section 494.0041, Florida Statutes, are amended to read:

494.0041 Administrative penalties and fines; license violations.—

(2) Each of the following acts constitutes a ground for which the disciplinary actions specified in subsection (1) may be taken:

(e) Failure to place immediately upon receipt, and maintain until authorized to disburse, any money entrusted to her or him by a person dealing with her or him as a mortgage broker in a segregated account of a federally insured financial institution in this state.

(f) Failure to account or deliver to any person any property that has come into her or his hands and that is not her or his property or that she or he is not in law or equity entitled to retain, under the circumstances and at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery.

(h) Any misuse, misapplication, or misappropriation of personal property entrusted to her or his care to which she or he had no current property right at the time of entrustment.

Section 547. Paragraphs (d), (i), and (j) of subsection (1) of section 494.006, Florida Statutes, are amended to read:

494.006 Exemptions.—

(1) None of the following persons are subject to the requirements of ss. 494.006-494.0077 in order to act as a mortgage lender or correspondent mortgage lender:

(d) Any person who, as a seller of his or her own real property, receives one or more mortgages in a purchase money transaction.

(i) Any person making or acquiring a mortgage loan with his or her own funds for his or her own investment, and who does not hold himself or herself out to the public, in any manner, as being in the mortgage lending business.

(j) Any person selling a mortgage that was made or purchased with that person's funds for his or her own investment, and who does not hold himself or herself out to the public, in any manner, as being in the mortgage lending business.

Section 548. Subsection (2) of section 494.0061, Florida Statutes, is amended to read:

494.0061 Mortgage lender's license requirements.—

(2) Notwithstanding the provisions of subsection (1), it is a ground for denial of licensure if the applicant, any principal officer or director of the applicant, or any natural person owning a 10-percent or greater interest in the applicant, or any natural person who is the ultimate equitable owner of a 10-percent or greater interest in the applicant has committed any violation specified in s. 494.0072, or has pending against her or him any criminal prosecution or administrative enforcement action, in any jurisdiction, which involves fraud, dishonest dealing, or any act of moral turpitude.

Section 549. Subsection (2) of section 494.0062, Florida Statutes, is amended to read:

494.0062 Correspondent mortgage lender's license requirements.—

(2) Notwithstanding the provisions of subsection (1), it is a ground for denial of licensure if the applicant, any principal officer or director of the applicant, or any natural person who is the ultimate equitable owner of a 10-percent or greater interest in the applicant has committed any violation specified in s. 494.0072, or has pending against her or him any criminal prosecution or administrative enforcement action, in any jurisdiction, which involves fraud, dishonest dealing, or any act of moral turpitude.

Section 550. Paragraphs (e), (f), and (h) of subsection (2) of section 494.0072, Florida Statutes, are amended to read:

494.0072 Administrative penalties and fines; license violations.—

(2) Each of the following acts constitutes a ground for which the disciplinary actions specified in subsection (1) may be taken:

(e) Failure to place immediately upon receipt, and maintain until authorized to disburse, any money entrusted to him or her by a person dealing with him or her as a lender in a segregated account in a federally insured financial institution;

(f) Failure to account for or deliver to any person any personal property that has come into his or her hands and that is not his or her property or that he or she is not in law or equity entitled to retain, under the circumstances and at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery.

(h) Any misuse, misapplication, or misappropriation of personal property entrusted to his or her care to which he or she had no current property right at the time of entrustment.

Section 551. Subsections (1), (2), (6), (8), and (9) of section 495.011, Florida Statutes, are amended to read:

495.011 Definitions.—As used in this chapter:

(1) “Trademark” means any word, name, symbol, character, design, drawing or device or any combination thereof adopted and used by a person to identify goods made or sold by her or him and to distinguish them from goods made or sold by others.

(2) “Service mark” means any word, name, symbol, character, design, drawing or device or any combination thereof, and the distinctive features of radio, television or other advertising, adopted and used by a person to identify services rendered or offered by her or him and to distinguish them from services rendered or offered by others.

(6) “Trade name” means any word, name, symbol, character, design, drawing or device or any combination thereof adopted and used by a person to identify her or his business, vocation or occupation and to distinguish it from the business, vocation or occupation of others.

(8) “Applicant” embraces the person filing an application for registration of a mark under this chapter, her or his legal representatives, successors or assigns.

(9) “Registrant” embraces the person to whom the registration of a mark under this chapter is issued, her or his legal representatives, successors or assigns.

Section 552. Paragraph (d) of subsection (1) of section 495.021, Florida Statutes, is amended to read:

495.021 Registrability.—

(1) A mark by which the goods or services of any applicant for registration may be distinguished from the goods or services of others shall not be registered if it:

(d) Consists of, comprises or includes the name, signature or portrait of any living individual, except with her or his written consent; or

Section 553. Paragraph (c) of subsection (1) and paragraph (d) of subsection (2) of section 495.031, Florida Statutes, are amended to read:

495.031 Application for registration.—

(1) Subject to the limitations set forth in this chapter, any person who adopts and uses a trademark or service mark in this state may file with the Department of State, on a form to be furnished by the department, an application for registration of that trademark or service mark setting forth, but not limited to, the following information:

(c) The date when the mark was first used anywhere and the date when it was first used in this state by the applicant or her or his predecessor in business or a related company of the applicant or the applicant's ~~his~~ predecessor; and

(2) Every applicant for registration of a certification mark in this state shall file with the Department of State, on a form to be furnished by the department, an application setting forth, but not limited to, the following information:

(d) A statement that the applicant is exercising control over the use of the mark, that the applicant ~~he~~ is not herself or himself engaged in the production or marketing of the goods or services to which the mark is applied, and that no person except the applicant or persons authorized by the applicant, or related companies thereof, has the right to use such mark in this state either in the identical form thereof or in such near resemblance thereto as to be likely to deceive or confuse or to be mistaken therefor.

Section 554. Subsection (2) of section 495.051, Florida Statutes, is amended to read:

495.051 Disclaimers.—

(2) No disclaimer shall prejudice or affect the applicant's or registrant's rights then existing or thereafter arising in the disclaimed matter, or her or his right of registration on another application if the disclaimed matter be or shall have become distinctive of her or his goods or services.

Section 555. Paragraph (e) of subsection (4) of section 495.101, Florida Statutes, is amended to read:

495.101 Cancellation.—The Department of State shall cancel from the register:

(4) Any registration concerning which a court of competent jurisdiction shall find that:

(e) The registered mark is so similar, as to be likely to cause confusion or mistake or to deceive, to a mark registered by another person in the United States Patent Office, prior to the date of the filing of the application for registration by the registrant hereunder, and not abandoned; provided, however, that should the registrant prove that she or he is the owner of a concurrent registration of her or his mark in the United States Patent Office covering an area including this state, the registration hereunder shall not be canceled.

Section 556. Section 495.121, Florida Statutes, is amended to read:

495.121 Fraudulent registration.—Any person who shall for herself or himself, or on behalf of any other person, procure the filing or registration of any mark with the Department of State under the provisions hereof, by knowingly making any false or fraudulent representation or declaration, verbally or in writing, or by any other fraudulent means, shall be liable to pay all damages sustained in consequence of such filing or registration, and for punitive or exemplary damages, to be recovered by or on behalf of the party injured thereby in any court of competent jurisdiction.

Section 557. Section 495.151, Florida Statutes, is amended to read:

495.151 Injury to business reputation; dilution.—Every person, association, or union of ~~workers working men~~ adopting and using a mark, trade name, label or form of advertisement may proceed by suit, and all courts having jurisdiction thereof shall grant injunctions, to enjoin subsequent use by another of the same or any similar mark, trade name, label or form of advertisement if it appears to the court that there exists a likelihood of injury to business reputation or of dilution of the distinctive quality of the mark, trade name, label or form of advertisement of the prior user, notwithstanding the absence of competition between the parties or of confusion as to the source of goods or services.

Section 558. Subsections (1) and (14) of section 496.404, Florida Statutes, are amended to read:

496.404 Definitions.—As used in ss. 496.401-496.424:

(1) “Charitable organization” means any person who is or holds herself or himself out to be established for any benevolent, educational, philanthropic, humane, scientific, artistic, patriotic, social welfare or advocacy, public health, environmental conservation, civic, or other eleemosynary purpose, or any person who in any manner employs a charitable appeal as the basis for any solicitation or an appeal that suggests that there is a charitable purpose to any solicitation. It includes a chapter, branch, area office, or similar affiliate soliciting contributions within the state for a charitable organization which has its principal place of business outside the state.

(14) “Membership” means the relationship of a person to an organization that entitles her or him to the privileges, professional standing, honors, or

other direct benefit of the organization in addition to the right to vote, elect officers, and hold office in the organization.

Section 559. Subsection (7) of section 496.405, Florida Statutes, is amended to read:

496.405 Registration statements by charitable organizations and sponsors.—

(7) The department must examine each initial registration statement or annual renewal statement and the supporting documents filed by a charitable organization or sponsor and shall determine whether the registration requirements are satisfied. Within 10 days after its receipt of a statement, the department must examine the statement, notify the applicant of any apparent errors or omissions, and request any additional information the department is allowed by law to require. Failure to correct an error or omission or to supply additional information is not grounds for denial of the initial registration or annual renewal statement unless the department has notified the applicant within the 10-day period. The department must approve or deny each statement, or must notify the applicant that the activity for which she or he seeks registration is exempt from the registration requirement, within 10 days after receipt of the initial registration or annual renewal statement or the requested additional information or correction of errors or omissions. Any statement that is not approved or denied within 10 days after receipt of the requested additional information or correction of errors or omissions is approved. Within 7 working days after receipt of a notification that the registration requirements are not satisfied, the charitable organization or sponsor may request a hearing. The hearing must be held within 7 working days after receipt of the request, and any recommended order, if one is issued, must be rendered within 3 working days of the hearing. The final order must then be issued within 2 working days after the recommended order. If a recommended order is not issued, the final order must be issued within 5 working days after the hearing. The proceedings must be conducted in accordance with chapter 120, except that the time limits and provisions set forth in this subsection prevail to the extent of any conflict.

Section 560. Paragraph (a) of subsection (1) of section 496.406, Florida Statutes, is amended to read:

496.406 Procedures for claiming an exemption from registration.—

(1)(a) The following charitable organizations and sponsors are exempt from the requirements of s. 496.405:

1. A person who is soliciting for a named individual, provided that all the contributions collected without any deductions whatsoever are turned over to the beneficiary for her or his use and provided that the person has complied with the requirements of s. 496.413.

2. A charitable organization or sponsor which limits solicitation of contributions to the membership of the charitable organization or sponsor. For the purposes of this paragraph, the term “membership” does not include those

persons who are granted a membership upon making a contribution as a result of a solicitation.

Section 561. Subsection (1) of section 496.409, Florida Statutes, is amended to read:

496.409 Registration and duties of professional fundraising consultant.—

(1) A person may not act as a professional fundraising consultant unless he or she has first complied with the requirements of ss. 496.401-496.424 and has obtained approval of the department of a registration statement in accordance with subsection (6). A person may not act as a professional fundraising consultant after the expiration, suspension, or cancellation of his or her registration.

Section 562. Subsection (1) and paragraph (d) of subsection (7) of section 496.410, Florida Statutes, are amended to read:

496.410 Registration and duties of professional solicitors.—

(1) No person may act as a professional solicitor unless the person has first complied with the requirements of ss. 496.401-496.424 and has obtained approval of the department of a registration statement in accordance with subsection (5). A person may not act as a professional solicitor after the expiration, suspension, or cancellation of his or her registration.

(7) Each contract or agreement between a professional solicitor and a charitable organization or sponsor for each solicitation campaign must be in writing, signed by two authorized officials of the charitable organization or sponsor, one of whom must be a member of the organization's governing body and one of whom must be the authorized contracting officer for the professional solicitor, and contain all of the following provisions:

(d) A statement of the percentage of the gross revenue which the professional solicitor will be compensated. If the compensation of the professional solicitor is not contingent upon the number of contributions or the amount of revenue received, his or her compensation shall be expressed as a reasonable estimate of the percentage of the gross revenue, and the contract must clearly disclose the assumptions upon which the estimate is based. The stated assumptions must be based upon all of the relevant facts known to the professional solicitor regarding the solicitation to be conducted by the professional solicitor.

Section 563. Paragraph (a) of subsection (1) of section 496.412, Florida Statutes, is amended to read:

496.412 Disclosure requirements and duties of professional solicitors.—

(1) A professional solicitor must comply with and be responsible for complying or causing compliance with the following disclosures:

(a) Prior to orally requesting a contribution, or contemporaneously with a written request for a contribution, a professional solicitor must clearly disclose:

1. The name of the professional solicitor as on file with the department.
2. If the individual acting on behalf of the professional solicitor identifies himself or herself by name, the individual's legal name.
3. The name and state of the principal place of business of the charitable organization or sponsor and a description of how the contributions raised by the solicitation will be used for a charitable or sponsor purpose; or, if there is no charitable organization or sponsor, a description as to how the contributions raised by the solicitation will be used for a charitable or sponsor purpose.

Section 564. Subsection (17) of section 496.415, Florida Statutes, is amended to read:

496.415 Prohibited acts.—It is unlawful for any person in connection with the planning, conduct, or execution of any solicitation or charitable or sponsor sales promotion to:

(17) Fail to identify his or her professional relationship to the person for whom the solicitation is being made.

Section 565. Subsection (6), paragraph (a) of subsection (7), and subsection (8) of section 496.425, Florida Statutes, are amended to read:

496.425 Solicitation of funds within public transportation facilities.—

(6) Each individual solicitor shall display prominently on her or his person a badge or insignia, provided by the solicitor and approved by the authority, bearing the signature of a responsible officer of the authority and that of the solicitor and describing the solicitor by name, age, height, weight, eye color, hair color, address, and principal occupation and indicating the name of the organization for which funds are solicited.

(7)(a) In conducting the activities, no person shall:

1. In any way obstruct, delay, or interfere with the free movements of any other person; seek to coerce or physically disturb any other person; or hamper or impede the conduct of any authorized business at the facility;

2. Use any sound or voice-amplifying apparatus on the premises of the facility;

3. Solicit or accept any donation of money except in accordance with paragraph (4)(a);

4. Use any drum, bell, tambourine, horn, or other noisemaking device;

5. In any way indicate to the public that she or he is a representative of the facility; or

6. Misrepresent her or his identity.

(8) A facility manager or her or his authorized representative may declare an emergency because of unusually congested conditions in a facility

due to adverse weather, schedule interruptions, or extremely heavy traffic movements or for emergency security measures. In the event of an emergency, an announcement to this effect shall be made. Any person soliciting contributions shall immediately cease such activities for the duration of the emergency.

Section 566. Section 497.135, Florida Statutes, is amended to read:

497.135 **Penalty for giving false information.**—In addition to, or in lieu of, any other discipline imposed pursuant to this chapter, the act of knowingly giving false information in the course of applying for or obtaining a license from the department or the board, with intent to mislead a public servant in the performance of his or her official duties, or the act of attempting to obtain or obtaining a license to practice by misleading statements or knowing misrepresentations constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 567. Section 497.225, Florida Statutes, is amended to read:

497.225 **Civil penalty.**—The department may seek an injunction and assessment of a civil penalty not to exceed \$1,000 for each violation, in a court of competent jurisdiction, against any person who violates a cease and desist order of the department which is final and in effect. Any party subject to the injunction and penalty assessment shall be given notice and opportunity to attend and present evidence in a hearing before the judicial officer. If a licensee fails to pay the penalty within 30 days after receiving notice of the final order imposing the civil penalty, the department may suspend her or his license until the penalty is paid, in addition to other judicial remedies prescribed by law. Proceedings for suspension under this section shall be in accordance with the provisions of chapter 120.

Section 568. Subsection (5) of section 497.445, Florida Statutes, is amended to read:

497.445 **Unfair methods of competition and unfair or deceptive acts or practices defined.**—Unfair methods of competition and unfair or deceptive acts or practices are defined as the following:

(5) **UNFAIR CLAIM SETTLEMENT PRACTICES.**—

(a) Attempting to settle a claim on the basis of a material document which was altered without notice to, or without the knowledge or consent of, the contract purchaser or his or her representative or legal guardian.

(b) Making a material misrepresentation to a contract purchaser or his or her representative or legal guardian for the purpose and with the intent of effecting settlement of a claim or loss under a prepaid contract on less favorable terms than those provided in, and contemplated by, the prepaid contract; or

(c) Committing or performing with such frequency as to indicate a general business practice any of the following acts:

1. Failing to adopt and implement standards for the proper investigation of claims;
2. Misrepresenting pertinent facts or prepaid contract provisions relating to issues on coverage of funeral merchandise or services or burial merchandise or services;
3. Failing to acknowledge and act promptly upon communications with respect to claims;
4. Denying claims without conducting reasonable investigations based upon available information;
5. Failing to affirm or deny coverage of a claim upon written request of a contract purchaser or his or her representative or legal guardian within a reasonable time; or
6. Failing to provide promptly a reasonable explanation to a contract purchaser or his or her representative or legal guardian of the basis, in the prepaid contract in relation to the facts or applicable law, for denial of a claim or for the offer of a compromise settlement.

Section 569. Section 497.527, Florida Statutes, is amended to read:

497.527 Civil remedies.—Any person may bring a civil action against a person or company violating the provisions of this chapter in the circuit court of the county in which the alleged violator resides or has his or her or its principal place of business or in the county wherein the alleged violation occurred. Upon adverse adjudication, the defendant shall be liable for actual damages or \$500, whichever is greater. The court may, as provided by common law, award punitive damages and may provide such equitable relief as it deems proper or necessary, including enjoining the defendant from further violations of this chapter.

Section 570. Paragraph (e) of subsection (2) and subsections (3), (17), and (18) of section 498.005, Florida Statutes, are amended to read:

498.005 Definitions.—As used in this chapter, unless the context otherwise requires, the term:

(2) “Advertising” means the publication of or the causing to be published of any information for the purpose of inducing any other person to purchase or to acquire an interest in subdivided lands, including the land sales contract to be used and any photographs, drawings, or artist’s representations of existing or planned physical conditions or facilities on the property, by means of any:

(e) Material used by subdividers or their agents, distributors, or any other persons to induce prospective purchasers to visit this state, particularly vacation certificates which involve a land sales presentation by a subdivider or her or his agents; or

(3) “Broker” means any person who is licensed as such by, or is exempt from, chapter 475 and who is employed or authorized by a subdivider to offer

for disposition any interest in subdivided lands required to be registered pursuant to this chapter and who is responsible for the supervision of salespersons ~~salesmen~~ who offer for disposition any interest in subdivided lands.

(17) "Salesperson ~~Salesman~~" means any person who is licensed as such by, or is exempt from, chapter 475 and who is employed or authorized by a subdivider or broker to offer for disposition any interest in subdivided lands required to be registered pursuant to this chapter.

(18) "Subdivider" means a person who owns any interest in subdivided lands or is engaged in the disposition of subdivided lands either directly or through the services of a broker or salesperson ~~salesman~~.

Section 571. Subsection (2) of section 498.021, Florida Statutes, is amended to read:

498.021 Jurisdiction.—The dispositions of subdivided lands are subject to this chapter, and the circuit courts of this state have jurisdiction in claims or causes of action arising under this law, if:

(2) The subdivider's principal office or any salesperson ~~salesman~~ or broker representing the subdivider is located in this state.

Section 572. Paragraph (c) of subsection (2), paragraph (d) of subsection (3), and subsection (4) of section 498.023, Florida Statutes, are amended to read:

498.023 Prohibitions on dispositions of interests in subdivided lands.—Unless the subdivided lands or the transaction is exempt pursuant to s. 498.025:

(2) No person may dispose of, or participate in the disposition of, any interest in subdivided lands unless:

(c) The contract and public offering statement authorize the purchaser to cancel the agreement without cause until midnight of the seventh day after he or she executes the contract.

(3) When the principal solicitation of the disposition is by long-distance telephone, no person may dispose of, or participate in the disposition of, any interest in subdivided lands unless:

(d) One of the following takes place subsequent to the solicitation of the disposition by long-distance telephone:

1. The prospective purchaser personally inspects the property before executing the agreement to purchase and so certifies in writing; or

2. The prospective purchaser executes an agreement to purchase which expressly provides that the purchaser or purchaser's agent has 6 months from the date the purchaser received the fully executed agreement to purchase in which to take a subdivider-guided personal inspection of the subdivided lands, and, at that time, if the purchaser is not satisfied with his or her purchase and the agreement to purchase is not in default, the purchaser

may request in writing a refund of all moneys paid in under the agreement to purchase, and shall be entitled to the refund, even though the aforesaid 30-day period has expired. The agreement to purchase shall also provide that the subdivider must make available a guided personal inspection of the subdivision upon request by the purchaser and that the purchaser may request, and shall be entitled to, the refund if the subdivider fails to make the inspection available. The documents mailed or delivered in accordance with this paragraph shall be governed by s. 498.037(3).

(4) No person may offer or dispose of, or participate in an offering or disposition of, any evidence of indebtedness secured by a mortgage or deed of trust of any interest in subdivided lands through any means of advertising unless the offering is registered with and approved by the division. This subsection does not apply to the offer or disposition of evidences of indebtednesses which are offered to not more than 20 purchasers; however, a person shall only avail himself or herself of this exemption one time within any 12-month period. This subsection does not apply to the bona fide sale, transfer, or delivery of evidences of indebtednesses by or to a bank, savings and loan association, trust company, insurance company, or real estate investment trust.

Section 573. Paragraph (d) of subsection (3) of section 498.024, Florida Statutes, is amended to read:

498.024 Reservations.—

(3) The provisions for an acceptable escrow or trust account pursuant to this section shall be as follows:

(d) The subdivider shall maintain separate records within her or his books for each reservation program in accordance with generally accepted accounting standards, as defined by rule of the Board of Accountancy.

Section 574. Paragraph (c) of subsection (1) and subsection (4) of section 498.027, Florida Statutes, are amended to read:

498.027 Application for registration.—

(1) The application for registration of subdivided lands shall be filed as prescribed by the rules of the division and shall contain any of the following documents and information required by the division:

(c) Regardless of where the subdivided lands are located, the application shall contain the following:

1. An irrevocable consent that, in noncriminal suits, proceedings, and actions growing out of any violation of this chapter or any rule or order of the division, the service on the division of any notice, process, or pleading authorized by the laws of this state shall be valid and binding as if due service had been made on the applicant;

2. The states or jurisdictions in which an application for registration or similar document has been filed, and any adverse order, judgment, or decree

entered in connection with the subdivided lands by the regulatory authorities in each jurisdiction or by any court;

3. The applicant's name and address, the form, date, and jurisdiction of organization, and the address of each of its offices in this state;

4. The name, home address, and principal occupation for the past 5 years of each director and officer of the applicant or of any person occupying a similar status or performing similar functions or any person who, in accordance with the rules of the division, is determined to be able to directly or indirectly control the operation of the business of the applicant; the name and home address of each shareholder holding a 10-percent-or-greater interest in the applicant, and the extent and nature of their interest in the applicant or the subdivided lands, as of a specified date within 30 days of the filing of the application;

5. A statement, such as a title opinion of a licensed attorney who is not a salaried employee, officer, or director of the applicant or owner, or other evidence of title acceptable to the division, of the condition of the title to the subdivided lands, including encumbrances, as of a specified date within 30 days of the date of application;

6. Copies of the instruments, acceptable to the division, which will be delivered to a purchaser showing her or his interest in the subdivided lands and of the contracts and other agreements which a purchaser will be required to agree to or sign;

7. Copies of the instruments by which the interest in the subdivided lands was acquired and a statement of any lien or encumbrance upon the title and copies of the instruments creating the lien or encumbrance, if any, showing the recording data;

8. If a lien or encumbrance exists which affects more than one lot, parcel, unit, or interest, a statement of the consequences for a purchaser of the subdivider's failure to discharge the lien or encumbrance and the steps, if any, taken to protect the purchaser if this occurs;

9. Copies of instruments creating easements, restrictions, or other encumbrances affecting the subdivided lands;

10. A statement of the zoning and other governmental regulations affecting the use of the subdivided lands, and of any existing taxes and existing or proposed special taxes or assessments which affect the subdivided lands;

11. A statement of the existing provisions for legal and physical access; a statement of the existing or proposed provisions for sewage disposal and potable water; a statement of other public utilities available in the subdivision; a statement of the improvements to be installed and the schedule for their completion, which may not be more than 4 years from the date of the issuance of the order of registration for roads and drainage and for other improvements in accordance with a development agreement pursuant to ss. 163.3220-163.3243; and a statement as to the provisions for perpetual maintenance of these improvements;

12. A narrative description of the promotional plan for the disposition of the subdivided lands together with copies of any proposed advertising material;

13. The proposed public offering statement;

14. Any other information which the division by its rules requires for the protection of purchasers, including a current financial statement; and

15. Notice of any local or state land use regulation or plan, and of any moratorium, the duration of which is 180 days or more, imposed by executive order, law, ordinance, regulation, or proclamation adopted by any governmental body or agency which prohibits or restricts the development or improvement of property not otherwise prohibited or restricted by applicable law, and the effect on the proposed use of the property.

(4) If a subdivider registers additional subdivided lands to be offered for disposition, she or he may consolidate the subsequent registration with any earlier registration offering subdivided lands for disposition under the same promotional plan, if the subsequent registration is contiguous to the earlier registration or is part of the same master plan.

Section 575. Subsection (3) of section 498.031, Florida Statutes, is amended to read:

498.031 Inquiry and examination.—

(3) The division may require each director and officer of the applicant or any registrant or person occupying a similar status or performing similar functions, or any person who directly or indirectly controls the operation of the business of the applicant or registrant, and each person who owns 10 percent or more of the outstanding stock or other form of equity interest in the applicant or registrant, to furnish her or his fingerprints and to provide evidence of her or his qualifications. The division shall exchange this information and fingerprints with the Department of Law Enforcement and the Federal Bureau of Investigation. This requirement to furnish fingerprints shall not apply to any applicant or registrant who:

(a) Has received an order of registration or exemption prior to July 1, 1974; and

(b) Has not been convicted of a criminal offense prohibited by this chapter and is not the subject of an indictment, information, or other formal charge relating to a criminal offense prohibited by this chapter.

The exemption provided by this subsection shall not extend to any individual who was not employed by or affiliated with the applicant or registrant prior to July 1, 1979.

Section 576. Subsection (4) of section 498.035, Florida Statutes, is amended to read:

498.035 Advertising material.—

(4) The division may require full disclosure of all pertinent information concerning a vacation or visitor campaign, including the terms and conditions of the campaign and the extent of the subdivider's participation in the campaign. The division may further require reasonable assurances that the subdivider or his or her agent can meet the obligations imposed by the certificate program.

Section 577. Paragraph (d) of subsection (2) of section 498.037, Florida Statutes, is amended to read:

498.037 Public offering statement.—

(2)

(d) The subdivider shall make no change in the substance of the promotional plan or plan of disposition or development of the subdivision after registration until she or he notifies the division in writing, complies with the requirements of s. 498.033(2), and appropriately amends the public offering statement.

Section 578. Paragraph (c) of subsection (1) of section 498.041, Florida Statutes, is amended to read:

498.041 Annual renewal.—

(1) Each registrant shall annually renew each order of registration it holds as an active registration until the subdivision qualifies for inactive registration, or the registration is revoked or terminated by the division. The annual renewal shall include:

(c) The name, license number, and address of any real estate salesperson ~~salesman~~ or broker in the State of Florida who was employed during the past year, or who is expected to be employed during the coming year, as an agent of the registrant to offer or dispose of registered subdivided lands.

This subsection does not limit or reduce the obligation of each registrant to submit to the division a notification of all material changes, pursuant to s. 498.033(2).

Section 579. Subsection (4) of section 498.047, Florida Statutes, is amended to read:

498.047 Investigations.—

(4) The division may permit a subdivider, broker, or salesperson ~~salesman~~ whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding in which orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the subdivider, broker, or salesperson ~~salesman~~.

Section 580. Paragraph (a) of subsection (3) of section 498.051, Florida Statutes, is amended to read:

498.051 Cease and desist orders.—

(3) The affirmative action to be taken by a person pursuant to an order authorized by subsection (1) may include, but is not limited to:

(a) Notifying any purchaser of subdivided land who has a rescission right that he or she may elect to rescind the purchase transaction as provided by contract or by other provisions of this chapter; and

Section 581. Paragraph (a) of subsection (1) and subsection (2) of section 498.057, Florida Statutes, are amended to read:

498.057 Service of process.—

(1) In addition to the methods of service provided for in the Florida Rules of Civil Procedure and the Florida Statutes, service may be made by delivering a copy of the process to the director of the division, which shall be binding upon the defendant or respondent if:

(a) The plaintiff, which may be the division, immediately sends a copy of the process and of the pleading by certified mail to the defendant or respondent at his or her last known address, and

(2) If any person, including any nonresident of this state, allegedly engages in conduct prohibited by this chapter, or any rule or order of the division, and has not filed a consent to service of process, and personal jurisdiction over him or her cannot otherwise be obtained in this state, the director shall be authorized to receive service of process in any noncriminal proceeding against that person or his or her successor which grows out of the conduct and which is brought under this chapter or any rule or order of the division. The process shall have the same force and validity as if personally served. Notice shall be given as provided in subsection (1).

Section 582. Section 498.059, Florida Statutes, is amended to read:

498.059 Penalties.—A person is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if she or he willfully:

(1) Offers, disposes of, or participates in an offer or disposition of subdivided lands in violation of s. 498.023(1);

(2) Disposes of or participates in the disposition of any interest in subdivided land without providing a current public offering statement in violation of s. 498.023(2);

(3) Offers, disposes of, or participates in any offer or disposition of any evidence of indebtedness secured by a mortgage or deed of trust of any interest in subdivided land in violation of s. 498.023(4);

(4) Fails to obtain written approval of the division for any material change to a registered offering of subdivided lands in violation of s. 498.033(2);

(5) Removes or diverts, or otherwise impairs, without approval, any moneys or other security or assurance established under s. 498.039;

(6) Makes any material misrepresentation, commits any fraudulent act, or conceals any material fact in the offer or disposition of subdivided lands; or

(7) Disposes of, conceals, or diverts any funds or assets of any person so as to substantially and adversely affect the interest of a purchaser of subdivided land.

Section 583. Subsections (3), (4), (5), and (6) of section 498.061, Florida Statutes, are amended to read:

498.061 Civil remedy.—

(3) Each person who materially participates in any disposition of any interest in subdivided lands in the manner specified in subsection (1), and who directly or indirectly controls a subdivider or is a general partner, officer, director, broker, ~~salesperson~~ ~~salesman~~, agent, or employee of a subdivider, shall also be liable jointly and severally with and to the same extent as the subdivider, unless that person did not know, and in the exercise of reasonable care could not have known, of the existence of the facts upon which the liability is alleged to exist. A right of contribution shall exist among persons so liable.

(4) Each person whose occupation gives authority to a statement which with her or his consent has been used in an application for registration or public offering statement is liable only for false statements and omissions in her or his statement if she or he knew or in the exercise of reasonable care could have known of the existence of the facts upon which the liability is alleged to exist, and she or he is not otherwise associated with the subdivision and development plan in a material way.

(5) Any stipulation or provision purporting to require any person acquiring any interest in subdivided lands to waive her or his rights under this chapter or any rule or order under it is void.

(6) Any sale or contract for sale of any interest in subdivided lands, which is in violation of this chapter or applicable rules or orders, is voidable by the purchaser, and she or he may, in addition to any other remedy provided by law, recover from the subdivider the total amount the purchaser ~~he~~ has paid on the contract or sale plus a reasonable attorney's fee, if she or he sues and prevails.

No action shall be maintained to enforce any liability created under this section unless brought within 3 years after the discovery of the violation or after discovery should have been made by the exercise of reasonable diligence.

Section 584. Subsection (10) and paragraphs (b) and (c) of subsection (11) of section 499.003, Florida Statutes, are amended to read:

499.003 Definitions of terms used in ss. 499.001-499.081.—As used in ss. 499.001-499.081, the term:

(10) “Device” means any instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including its components, parts, or accessories, which is:

(a) Recognized in the current edition of the United States Pharmacopoeia and National Formulary, or any supplement thereof,

(b) Intended for use in the diagnosis, cure, mitigation, treatment, therapy, or prevention of disease in humans ~~man~~ or other animals, or

(c) Intended to affect the structure or any function of the body of humans ~~man~~ or other animals,

and which does not achieve any of its principal intended purposes through chemical action within or on the body of humans ~~man~~ or other animals and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

(11) “Drug” means an article that is:

(b) Intended for use in the diagnosis, cure, mitigation, treatment, therapy, or prevention of disease in humans ~~man~~ or other animals;

(c) Intended to affect the structure or any function of the body of humans ~~man~~ or other animals; or

Section 585. Subsection (7) of section 499.005, Florida Statutes, is amended to read:

499.005 Prohibited acts.—It is unlawful to perform or cause the performance of any of the following acts in this state:

(7) The giving of a false guaranty or false undertaking with respect to a drug, device, or cosmetic, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in this state from whom she or he received in good faith the drug, device, or cosmetic.

Section 586. Subsection (12) of section 499.007, Florida Statutes, is amended to read:

499.007 Misbranded drug or device.—A drug or device is misbranded:

(12) If it is a drug intended for use by humans ~~man~~ which is a habit-forming drug or which, because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drugs; or which is limited by an effective application under s. 505 of the federal act to use under the professional supervision of a practitioner licensed by law to prescribe such drug, unless it is dispensed only:

- (a) Upon the written prescription of a practitioner licensed by law to prescribe such drug;
- (b) Upon an oral prescription of such practitioner, which is reduced promptly to writing and filled by the pharmacist; or
- (c) By refilling any such written or oral prescription, if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filled by the pharmacist.

This subsection does not relieve any person from any requirement prescribed by law with respect to controlled substances as defined in the applicable federal and state laws.

A drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to prescribe such drug is exempt from the requirements of this section, except subsections (1), (8), (10), and (11) and the packaging requirements of subsections (6) and (7), if the drug bears a label that contains the name and address of the dispenser or seller, the prescription number and the date the prescription was written or filled, the name of the prescriber and the name of the patient, and the directions for use and cautionary statements. This exemption does not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail or to any drug dispensed in violation of subsection (12). The department may, by rule, exempt drugs subject to ss. 499.062-499.064 from subsection (12) if compliance with that subsection is not necessary to protect the public health, safety, and welfare.

Section 587. Subsections (3) and (4) of section 499.015, Florida Statutes, are amended to read:

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

(3) Except for those persons exempted from the definition in s. 499.003(21), a person may not sell any product that he or she has failed to register in conformity with this section. Such failure to register subjects such drug, device, or cosmetic product to seizure and condemnation as provided in ss. 499.062-499.064, and subjects such person to the penalties and remedies provided in ss. 499.001-499.081.

(4) Unless a registration is renewed, it expires 2 years after the last day of the month in which it was issued. The department may issue a stop-sale notice or order against a person that is subject to the requirements of this section and that fails to comply with this section within 31 days after the date the registration expires. The notice or order shall prohibit such person from selling or causing to be sold any drugs, devices, or cosmetics covered by ss. 499.001-499.081 until he or she complies with the requirements of this section.

Section 588. Paragraph (a) of subsection (5) of section 499.02, Florida Statutes, is amended to read:

499.02 Florida Drug Technical Review Panel; purpose; membership; meetings; records; expenses.—

(5)(a) The technical panel shall select a ~~chair~~ ~~chairman~~ from its membership. The technical panel shall meet at the request of the department or shall respond in writing to a request by the department for technical assistance or for review of an application. In performing its responsibilities the panel shall use accepted rules of procedure.

Section 589. Section 499.024, Florida Statutes, is amended to read:

499.024 Drug product classification.—The secretary shall adopt rules to classify drug products intended for use by humans ~~man~~ which the United States Food and Drug Administration has not classified in the federal act or the Code of Federal Regulations.

(1) The Florida Drug Technical Review Panel may review and make recommendations on products.

(2) Drug products must be classified as proprietary, prescription, or investigational drugs.

(3) If a product is distributed without required labeling, it is misbranded while held for sale.

(4) Any product that falls under the drug definition, s. 499.003(11), may be classified under the authority of this section. This section does not subject portable emergency oxygen inhalators to classification; however, this section does not exempt any person from ss. 499.01 and 499.015.

(5) Any product classified under the authority of this section reverts to the federal classification, if different, upon the federal regulation or act becoming effective.

(6) The department may by rule reclassify drugs subject to ss. 499.001-499.081 when such classification action is necessary to protect the public health.

(7) The department may adopt rules that exempt from any labeling or packaging requirements of ss. 499.001-499.081 drugs classified under this section if those requirements are not necessary to protect the public health.

Section 590. Subsection (15) of section 499.028, Florida Statutes, is amended to read:

499.028 Drug samples or complimentary drugs; starter packs; permits to distribute.—

(15) A person may not possess a prescription drug sample unless:

(a) The drug sample was prescribed to her or him as evidenced by the label required in s. 465.0276(5).

(b) She or he is the employee of a complimentary drug distributor that holds a permit issued under ss. 499.001-499.081.

(c) She or he is a person to whom prescription drug samples may be distributed pursuant to this section.

Section 591. Paragraph (f) of subsection (1) of section 499.041, Florida Statutes, is amended to read:

499.041 Schedule of fees for drug, device, and cosmetic applications and permits, investigational drug applications, product registrations, and free-sale certificates; trust fund.—

(1) The department shall assess applicants requiring a manufacturing permit an annual fee within the ranges established in this section for the specific type of manufacturer.

(f) A manufacturer may not be required to pay more than one fee per establishment to obtain an additional manufacturing permit, but each manufacturer must pay the highest fee applicable to his or her operation in each establishment.

Section 592. Subsections (1), (2), and (3) of section 499.06, Florida Statutes, are amended to read:

499.06 Embargoing, detaining, or destroying article or processing equipment which is in violation of law or rule.—

(1) When a duly authorized agent of the department finds, or has probable cause to believe, that any drug, device, or cosmetic is in violation of any provision of ss. 499.001-499.081 or any rule adopted under such sections so as to be dangerous, unwholesome, or fraudulent within the meaning of ss. 499.001-499.081, she or he may issue and enforce a stop-sale, stop-use, removal, or hold order, which order gives notice that such article or processing equipment is, or is suspected of being, in violation and has been detained or embargoed, and which order warns all persons not to remove, use, or dispose of such article or processing equipment by sale or otherwise until permission for removal, use, or disposal is given by such agent or the court. It is unlawful for any person to remove, use, or dispose of such detained or embargoed article or processing equipment by sale or otherwise without such permission; and such act is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) When an article or processing equipment detained or embargoed under subsection (1) has been found by such agent to be in violation of law or rule, she or he shall, within 90 days after the issuance of such notice, petition the circuit court, in the jurisdiction of which the article or processing equipment is detained or embargoed, for an order for condemnation of such article or processing equipment. When such agent has found that an article or processing equipment so detained or embargoed is not in violation, she or he shall rescind the stop-sale, stop-use, removal, or hold order.

(3) If the court finds that the detained or embargoed article or processing equipment is in violation, such article or processing equipment shall, after entry of the court order, be destroyed or made sanitary at the expense of the claimant thereof, under the supervision of such agent; and all court costs,

fees, and storage and other proper expenses shall be taxed against the claimant of such article or processing equipment or her or his agent. However, when the violation can be corrected by proper labeling of the article or sanitizing of the processing equipment, and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article be so labeled or processed or such processing equipment be so sanitized, has been executed, the court may by order direct that such article or processing equipment be delivered to the claimant thereof for such labeling, processing, or sanitizing, under the supervision of an agent of the department. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article or processing equipment upon representation to the court by the department that the article or processing equipment is no longer in violation of ss. 499.001-499.081 and that the expenses of such supervision have been paid.

Section 593. Section 499.063, Florida Statutes, is amended to read:

499.063 Seizure; procedure; prohibition on sale or disposal of article; penalty.—Whenever a duly authorized officer or employee of the department finds cause, or has probable cause to believe that cause exists, for the seizure of any drug, device, or cosmetic, as set out in ss. 499.001-499.081, he or she shall affix to the article a tag, stamp, or other appropriate marking, giving notice that the article is, or is suspected of being, subject to seizure under ss. 499.001-499.081 and that the article has been detained and seized by the department. Such officer or employee shall also warn all persons not to remove or dispose of the article, by sale or otherwise, until permission is given by the department or the court. Any person who violates this section is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 594. Subsection (5) of section 499.067, Florida Statutes, is amended to read:

499.067 Denial, suspension, or revocation of permit or registration.—

(5) The department may deny, suspend, or revoke a permit issued under ss. 499.001-499.081 which authorizes the permittee to purchase prescription drugs, if any owner, officer, employee, or other person who participates in administering or operating the establishment has been found guilty of any violation of ss. 499.001-499.081 or chapter 465, chapter 501, or chapter 893, any rules adopted under any of those sections or chapters, or any federal or state drug law, regardless of whether the person has been pardoned, had her or his civil rights restored, or had adjudication withheld.

Section 595. Subsections (2) and (3) of section 499.069, Florida Statutes, are amended to read:

499.069 Punishment for violations of s. 499.005; dissemination of false advertisement.—

(2) A person is not subject to the penalties of subsection (1) for having violated any of the provisions of s. 499.005 if he or she establishes a guaranty or undertaking, which guaranty or undertaking is signed by and contains

the name and address of the person residing in the state, or the manufacturer, from whom he or she received the article in good faith, to the effect that such article is not adulterated or misbranded within the meaning of ss. 499.001-499.081, citing such sections.

(3) A publisher, radio broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, wholesaler, or seller of the article to which a false advertisement relates, is not liable under this section by reason of the dissemination by him or her of such false advertisement, unless he or she has refused, on the request of the department, to furnish to the department the name and post-office address of the manufacturer, wholesaler, seller, or advertising agency that asked him or her to disseminate such advertisement.

Section 596. Subsection (1) of section 499.62, Florida Statutes, is amended to read:

499.62 License or permit required of manufacturer, distributor, dealer, or purchaser of ether.—

(1) It shall be unlawful for any person to engage in the business of manufacturing, distributing, or dealing in ether in this state, except when done in conformity with the provisions of this part. No person shall be required to obtain more than one license under this part to handle ether, but each person shall pay the highest fee applicable to her or his operation in each location.

Section 597. Paragraphs (b), (c), and (d) of subsection (3) of section 499.64, Florida Statutes, are amended to read:

499.64 Issuance of licenses and permits; prohibitions.—

(3) No license or permit shall be issued, renewed, or allowed to remain in effect for any natural person, or for any corporation which has any corporate officer:

(b) Who has been convicted of a felony under the prescription drug or controlled substance laws of this state or any other state or federal jurisdiction, regardless of whether he or she has been pardoned or had his or her civil rights restored.

(c) Who has been convicted of any felony other than a felony under the prescription drug or controlled substance laws of this state or any other state or federal jurisdiction and has not been pardoned or had his or her civil rights restored.

(d) Who has been adjudicated mentally incompetent and has not had his or her civil rights restored.

Section 598. Subsection (1) of section 499.65, Florida Statutes, is amended to read:

499.65 Possession of ether without license or permit prohibited; confiscation and disposal; exceptions.—

(1) It is unlawful for any person to possess 2.5 gallons, or equivalent by weight, or more of ether unless she or he is the holder of a current valid license or permit as provided by this part.

Section 599. Subsection (1) of section 499.68, Florida Statutes, is amended to read:

499.68 Reports of thefts, illegal use, or illegal possession.—

(1) Any sheriff, police department, or law enforcement officer of this state shall give immediate notice to the department of any theft, illegal use, or illegal possession of ether involving any person and shall forward a copy of his or her final written report to the department.

Section 600. Subsection (3) of section 499.73, Florida Statutes, is amended to read:

499.73 Suspension or revocation of license or permit.—

(3) Any person or office of a corporation whose permit or license has been suspended or revoked shall not be issued a new permit or license under any other name or company name until the expiration of the suspension or revocation in which she or he has been involved.

Section 601. Section 499.76, Florida Statutes, is amended to read:

499.76 Injunctive relief.—In addition to the penalties and other enforcement provisions of this part, in the event any person engaged in any of the activities covered by this part violates any provision of this part, any rule adopted pursuant thereto, or any cease and desist order as provided by this part, the department is authorized to resort to proceedings for injunction in the circuit court of the county in which the violation occurred or in which the person resides or has his or her principal place of business and may therein apply for such temporary and permanent orders as the department may deem necessary to restrain such person from engaging in any such activities until such person complies with the provisions of this part, the rules adopted pursuant thereto, and the orders of the department as authorized by this part.

Section 602. Subsection (7) of section 500.04, Florida Statutes, is amended to read:

500.04 Prohibited acts.—The following acts and the causing thereof within the state are prohibited:

(7) The giving of a guaranty or undertaking with respect to a food, which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in this state from whom she or he received in good faith the food.

Section 603. Subsection (2) of section 500.11, Florida Statutes, is amended to read:

500.11 Food deemed misbranded.—

(2) When soft drinks are offered for sale in sanitary returnable or nonreturnable containers, sealed or securely capped, impervious to contamination by leakage or contact with foreign substances, and when the trade name, net content, and declaration of artificial flavor or color, when used, appear on the principal display panel, which may be the cap, crown, lid, or side of the container of such drinks, and when the manufacturer, at least once every year and oftener when required by the department, files with the department an affidavit stating the trade names of such drinks manufactured by him or her and the territorial limits in the state within which such drinks are offered for sale, the provisions of this chapter requiring additional labeling and branding of such drinks do not apply. However, nothing in this subsection shall in any manner otherwise restrict, modify, or impair the jurisdiction and authority of the department over such drinks as food products and the conditions pertaining to the manufacture of same.

Section 604. Paragraph (c) of subsection (1) of section 500.121, Florida Statutes, is amended to read:

500.121 Disciplinary procedures.—

(1) In addition to the suspension procedures provided in s. 500.12, the department may impose a fine not exceeding \$5,000 against any retail food store or food establishment that has violated this chapter, which fine, when imposed and paid, shall be deposited by the department into the General Inspection Trust Fund. The department may revoke or suspend the permit of any such retail food store or food establishment if it is satisfied that the retail food store or food establishment has:

(c) Knowingly committed, or been a party to, any material fraud, misrepresentation, conspiracy, collusion, trick, scheme, or device whereby any other person, lawfully relying upon the word, representation, or conduct of a retail food store or food establishment, acts to her or his injury or damage.

Section 605. Subsection (2) of section 500.13, Florida Statutes, is amended to read:

500.13 Addition of poisonous or deleterious substance to food.—

(2) The department, whenever public interest in the state so requires, is authorized to adopt, amend, or repeal regulations whether or not in accordance with regulations promulgated under the federal act, prescribing therein tolerances for any added poisonous or deleterious substances, for food additives, for pesticide chemicals in or on raw agricultural commodities or for color additives, including, but not limited to, zero tolerances, and exemptions from tolerances in the case of pesticide chemicals in or on raw agricultural commodities, and prescribing the conditions under which a food additive or color additive may be safely used and exemptions where such food additive or color additive is to be used solely for investigational or experimental purposes, upon his or her own motion or upon the petition of any interested party requesting that such a regulation be established, and it shall be incumbent upon such petitioner to establish by data submitted

to the department that a necessity exists for such regulation, and that its effect will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the department to determine whether such regulation should be promulgated, the department may require additional data to be submitted and a failure to comply with the request shall be sufficient grounds to deny the request. In adopting, amending or repealing regulations relating to such substances the department shall consider among other relevant factors, the following which the petitioner, if any, shall furnish:

(a) The name and all pertinent information concerning such substance including where available, its chemical identity and composition, a statement of the conditions of the proposed use, including directions, recommendations and suggestions and including specimens of proposed labeling, all relevant data bearing on the physical or other technical effect and the quantity required to produce such effect.

(b) The probable composition of, or other relevant exposure from the article and of any substance formed in or on a food, resulting from the use of such substance.

(c) The probable consumption of such substance in the diet of humans ~~man~~ and animals taking into account any chemically or pharmacologically related substance in such diet.

(d) Safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of such substances for the use or uses for which they are proposed to be used, are generally recognized as appropriate for the use of animal experimentation data.

(e) The availability of any needed practicable methods of analysis for determining the identity and quantity of such substance in or on an article, any substance formed in or on such article because of the use of such substance, and the pure substance and all intermediates and impurities.

(f) Facts supporting a contention that the proposed use of such substance will serve a useful purpose.

Section 606. Subsection (3) of section 500.172, Florida Statutes, is amended to read:

500.172 Embargoing, detaining, destroying of food or food-processing equipment that is in violation.—

(3) If the court finds that the detained or embargoed article or processing equipment is in violation, such article or processing equipment shall, after entry of the decree, be destroyed or made sanitary at the expense of the claimant thereof under the supervision of the department; all court costs, fees, and storage and other proper expenses shall be taxed against the claimant of such article or processing equipment or her or his agent. However, if the violation can be corrected by proper labeling of the article or sanitizing of processing equipment, and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article

be so labeled or processed or such processing equipment so sanitized, has been executed, the court may by order direct that such article or processing equipment be delivered to the claimant thereof for such labeling, processing, or sanitizing under the supervision of the department. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article or processing equipment on representation to the court by the department that the article or processing equipment is no longer in violation of this chapter and that the expenses of such supervision have been paid.

Section 607. Subsection (2) of section 500.177, Florida Statutes, is amended to read:

500.177 Penalty for violation of s. 500.04; dissemination of false advertisement.—

(2) No person shall be subject to the penalties of subsection (1) for having violated s. 500.04(1) or (3) if he or she establishes a guaranty or undertaking, which guaranty or undertaking is signed by and contains the name and address of the person residing in the state or the manufacturer from whom he or she received the article in good faith, to the effect that such article is not adulterated or misbranded within the meaning of this chapter, citing the appropriate section thereof.

Section 608. Subsection (12) of section 500.301, Florida Statutes, is amended to read:

500.301 Standards of enrichment for grain products; definitions.—As used in ss. 500.301-500.306, the term:

(12) “Sell at retail,” if used with reference to a food intended for human consumption, means sale of the food to a purchaser for her or his personal, family, or household consumption, and not for resale.

Section 609. Paragraph (a) of subsection (1) and paragraph (d) of subsection (2) of section 501.001, Florida Statutes, are amended to read:

501.001 Florida Anti-Tampering Act.—

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

(a) “Consumer product” includes:

1. “Food,” which means:

a. Any article used for food or drink for humans ~~man~~ or other animals;

b. Chewing gum; or

c. Any article intended for use as a component of any article specified in sub-subparagraph a. or sub-subparagraph b.

2. “Drug,” which means:

a. Any agent or product recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement thereof;

b. Any agent or product intended for use in the diagnosis, cure, mitigation, treatment, therapy, or prevention of disease in humans ~~man~~ or other animals;

c. Any agent or product, other than food, intended to affect the structure or any function of the body of humans ~~man~~ or other animals; or

d. Any agent or product intended for use as a component of any agent or product specified in sub-subparagraph a., sub-subparagraph b., or sub-subparagraph c., but does not include devices or their components, parts, or accessories.

3. "Device," which means any instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, which is:

a. Recognized in the official National Formulary or the United States Pharmacopoeia, or any supplement thereof;

b. Intended for use in the diagnosis, cure, mitigation, treatment, therapy, or prevention of disease in humans ~~man~~ or other animals; or

c. Intended to affect the structure or any function of the body of humans ~~man~~ or other animals,

and which does not achieve any of its principal intended purposes through chemical action within or on the body of humans ~~man~~ or other animals and is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

4. "Cosmetic," which means:

a. Any substance or product intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, but does not include soap; or

b. Any substance or product intended for use as a component of any substance or product specified in sub-subparagraph a.

(2) TAMPERING; PENALTIES.—

(d) Whoever knowingly threatens, under circumstances in which the threat may reasonably be expected to be believed, that he or she will commit or cause to be committed an act which would violate paragraph (a) is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

Section 610. Paragraph (a) of subsection (2) of section 501.021, Florida Statutes, is amended to read:

501.021 Home solicitation sale; definitions.—As used in ss. 501.021-501.055:

(2) “Home solicitation sale” means a sale, lease, or rental of consumer goods or services with a purchase price in excess of \$25 which includes all interest, service charges, finance charges, postage, freight, insurance, and service or handling charges, whether under single or multiple contracts, made pursuant to an installment contract, a loan agreement, other evidence of indebtedness, or a cash transaction or other consumer credit transaction, in which:

(a) The seller or a person acting for him or her engages in a personal solicitation of the sale, lease, or rental at a place other than at the seller’s fixed location business establishment where goods or services are offered or exhibited for sale, lease, or rental, and

including a transaction unsolicited by the consumer and consummated by telephone and without any other contact between the buyer and the seller or its representative prior to delivery of the goods or performance of the services. It does not include a sale, lease, or rental made at any fair or similar commercial exhibit or a sale, lease, or rental that results from a request for specific goods or services by the purchaser or lessee or a sale made by a motor vehicle dealer licensed under s. 320.27 which occurs at a location or facility open to the general public or to a designated group.

Section 611. Paragraph (b) of subsection (1) and subsection (5) of section 501.022, Florida Statutes, are amended to read:

501.022 Home solicitation sale; permit required.—

(1)

(b) The following are excluded from the operation of this section:

1. Bona fide agents, business representatives, or salespersons ~~salesmen~~ making calls or soliciting orders at the usual place of business of a customer regarding products or services for use in connection with the customer’s business.

2. Solicitors, salespersons ~~salesmen~~, or agents making a call or business visit upon the express invitation, oral or written, of an inhabitant of the premises or her or his agent.

3. Telephone solicitors, salespersons ~~salesmen~~, or agents making calls which involve transactions that are unsolicited by the consumer and consummated by telephone and without any other contact between the buyer and the seller or its representative prior to delivery of the goods or performance of the services.

4. Solicitors, salespersons ~~salesmen~~, or agents conducting a sale, lease, or rental of consumer goods or services by sample, catalog, or brochure for future delivery.

5. Minors, as defined in s. 1.01(14), conducting home solicitation sales under the supervision of an adult supervisor who holds a valid home solicitation sale permit. Minors excluded from operation of this section must, however, carry personal identification which includes their full name, date of birth, residence address, and employer and the name and permit number of their adult supervisor.

6. Those sellers or their representatives that are currently regulated as to the sale of goods and services by chapter 470, chapter 475, or chapter 497.

7. Solicitors, ~~salespersons~~ ~~salesmen~~, or agents making calls or soliciting orders on behalf of a religious, charitable, scientific, educational, or veterans' institution or organization holding a sales tax exemption certificate under s. 212.08(7)(a).

(5) Whenever any person, after applying for or receiving a home solicitation sale permit, moves from the address named in such application or in the permit issued to her or him or when the name of a permitholder is changed by marriage or otherwise, such person shall within 15 days thereafter notify the issuing clerk of the circuit court for the county in writing of her or his old and new addresses or of which former and new names and of the number of her or his permit.

Section 612. Subsection (1) of section 501.031, Florida Statutes, is amended to read:

501.031 Home solicitation sale; written agreement.—Every home solicitation sale shall be evidenced by a writing as provided in this section.

(1) In a home solicitation sale, the seller must present to and obtain from the buyer his or her signature to a written agreement or offer to purchase which designates, as the date of the transaction, the date on which the buyer actually signs and which contains a statement of the buyer's rights, which statement complies with subsection (2).

Section 613. Section 501.041, Florida Statutes, is amended to read:

501.041 Home solicitation sale; restoration of down payment.—Within 10 days after a home solicitation sale has been canceled or an offer to purchase revoked, the seller must tender to the buyer any payments made by the buyer and any note or other evidence of indebtedness. If the down payment includes goods traded in, the goods must be tendered in substantially as good condition as when received by the seller. If the seller fails to tender the goods, the buyer may elect to recover an amount equal to the trade-in allowance stated in the agreement. Until the seller has complied with the obligations imposed by this section, the buyer may retain possession of goods delivered to her or him by the seller and has a lien on the goods in her or his possession or control for any recovery to which she or he is entitled.

Section 614. Section 501.045, Florida Statutes, is amended to read:

501.045 Home solicitation sale; duty of buyer.—Except as provided in s. 501.041, within a reasonable time after a home solicitation sale has been

canceled or an offer to purchase revoked, the buyer upon demand must tender to the seller any goods delivered by the seller pursuant to the sale, but he or she is not obligated to tender at any place other than his or her residence. If the seller fails to demand possession of goods within a reasonable time after cancellation or revocation, the goods become the property of the buyer without obligation to pay for them. For the purposes of this section, 40 days is presumed to be a reasonable time. The buyer has the duty to take reasonable care of the goods in his or her possession before cancellation or revocation and for a reasonable time thereafter, during which time the goods are otherwise at the seller's risk. If the seller has performed any services pursuant to a home solicitation sale prior to its cancellation, the seller is entitled to no compensation for such services.

Section 615. Subsection (2) of section 501.055, Florida Statutes, is amended to read:

501.055 Home solicitation sale; penalties.—

(2) Any person who conducts or attempts to conduct a home solicitation sale without first obtaining and having in her or his possession a valid, current permit as required by s. 501.022 or who uses or attempts to use an expired, suspended, or revoked home solicitation sale permit in a home solicitation sale is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Upon second or subsequent conviction for violation of this subsection, the offender is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 616. Paragraph (c) of subsection (1) and paragraphs (a) and (b) of subsection (9) of section 501.059, Florida Statutes, are amended to read:

501.059 Telephone solicitation.—

(1) As used in this section:

(c) "Unsolicited telephonic sales call" means a telephonic sales call other than a call made:

1. In response to an express request of the person called;
2. Primarily in connection with an existing debt or contract, payment or performance of which has not been completed at the time of such call;
3. To any person with whom the telephone solicitor has a prior or existing business relationship; or
4. By a newspaper publisher or his or her agent or employee in connection with his or her business.

(9)(a) In any civil litigation resulting from a transaction involving a violation of this section, the prevailing party, after judgment in the trial court and exhaustion of all appeals, if any, shall receive his or her reasonable attorney's fees and costs from the nonprevailing party.

(b) The attorney for the prevailing party shall submit a sworn affidavit of his or her time spent on the case and his or her costs incurred for all the motions, hearings, and appeals to the trial judge who presided over the civil case.

Section 617. Subsections (2) and (6) and paragraph (a) of subsection (7) of section 501.065, Florida Statutes, are amended to read:

501.065 Hazardous Substances Law; definitions.—For the purpose of ss. 501.061-501.121:

(2) “Secretary” means the secretary of the Department of Health and Rehabilitative Services or her or his legally authorized representative or agent.

(6) “Toxic” applies to any substance (other than a radioactive substance) which has the capacity to produce personal injury or illness to humans ~~man~~ through ingestion, inhalation, or absorption through any body surface.

(7)(a) “Highly toxic” means any substance which falls within any of the following categories:

1. Produces death within 14 days in one-half or more than one-half of a group of 10 or more laboratory white rats, each weighing between 200 and 300 grams, at a single dose of 50 milligrams or less per kilogram of body weight, when orally administered.

2. Produces death within 14 days in one-half or more than one-half of a group of 10 or more laboratory white rats, each weighing between 200 and 300 grams, when inhaled continuously for a period of 1 hour or less at an atmosphere concentration of 200 parts per million by volume or less of gas or vapor or 2 milligrams per liter by volume or less of mist or dust if such concentration is likely to be encountered by humans ~~man~~ when the substance is used in any reasonably foreseeable manner.

3. Produces death within 14 days in one-half or more than one-half of a group of 10 or more rabbits tested in a dosage of 200 milligrams or less per kilogram of body weight, when administered by continuous contact with the bare skin for 24 hours or less.

Section 618. Subsection (2) of section 501.081, Florida Statutes, is amended to read:

501.081 Hazardous Substances Law; penalties.—

(2) No person shall be subject to the penalties of subsection (1) of this section:

(a) For having violated s. 501.075(3) if the receipt, delivery, or proffered delivery of the hazardous substance was made in good faith unless he or she refuses to furnish on request of an officer or employee duly designated by the department the name and address of the person from whom he or she purchased or received such hazardous substance and copies of all docu-

ments, if there be any, pertaining to the delivery of the hazardous substance to him or her; or

(b) For having violated s. 501.075(1) if he or she establishes a guarantee or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he or she received in good faith the hazardous substance, to the effect that the hazardous substance is not a misbranded hazardous substance or a banned hazardous substance within the meaning of those terms in ss. 501.061-501.121.

Section 619. Subsections (1) and (2) and paragraph (a) of subsection (3) of section 501.091, Florida Statutes, are amended to read:

501.091 Hazardous Substances Law; embargo and seizure.—

(1) Whenever a duly authorized agent of the department finds or has probable cause to believe that any hazardous household substance is misbranded or is a banned hazardous substance within the meaning of ss. 501.061-501.121, she or he shall affix to such article a tag or other appropriate marking giving notice that such article is, or is suspected of being, misbranded or is a banned hazardous substance and has been detained or embargoed and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It is unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission.

(2) When an article detained or embargoed under subsection (1) has been found by an agent to be misbranded or a banned hazardous substance, she or he shall petition the judge of the circuit court in whose jurisdiction the article is detained or embargoed for a libel of condemnation of such article. When an agent has found that an article so detained or embargoed is not a misbranded or banned hazardous substance, she or he shall remove the tag or other marking.

(3)(a) If the court finds that a detained or embargoed article is a misbranded or banned hazardous substance, the article shall, after entry of the decree, be destroyed at the expense of the claimant thereof under supervision of the agent, and all court costs and fees and storage and other proper expenses shall be taxed against the claimant of such article or her or his agents.

Section 620. Section 501.095, Florida Statutes, is amended to read:

501.095 Hazardous Substances Law; hearing before report of violation.— It is the duty of each state attorney, county attorney, or city attorney to whom the department reports any violation of ss. 501.061-501.121 to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before any violation is reported to any such attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his or her views before the department or its designated agent, either orally or in writing, in person or by attorney, with regard to such contemplated proceeding.

Section 621. Subsection (2) of section 501.105, Florida Statutes, is amended to read:

501.105 Hazardous Substances Law; examinations and investigations.—

(2) If the officer or employee obtains any sample prior to leaving the premises, he or she shall pay or offer to pay the owner, operator, or agent in charge for such sample and give a receipt describing the samples obtained.

Section 622. Paragraph (a) of subsection (3) of section 501.122, Florida Statutes, is amended to read:

501.122 Control of nonionizing radiations; laser; penalties.—

(3) PENALTIES FOR USING UNREGISTERED LASER DEVICE OR PRODUCT.—

(a) No person licensed to practice the healing arts, nor any other person, may use a Class III or a Class IV laser device or product as defined by federal regulations unless she or he has complied with the rules governing the registration of such devices with the department promulgated pursuant to subsection (2).

Section 623. Paragraph (c) of subsection (5) and subsection (6) of section 501.135, Florida Statutes, are amended to read:

501.135 Consumer unit pricing.—

(5) APPROVED UNIT OF QUANTITY AND COMPUTATION OF UNIT PRICE.—

(c) This act shall not apply to any seller unless he or she voluntarily establishes a system of unit pricing.

(6) DISPLAY AND ADVERTISING OF CONSUMER COMMODITY UNIT PRICES.—A seller shall conspicuously and clearly display the price per package or unit and the unit price in close proximity to the display of the commodity in such manner as may be established by rules of the department. However, the display of the prices may not obliterate or conceal any other information required by law or regulation. Nothing contained herein shall be construed to require that a seller unit price any consumer commodity other than those with regard to which he or she has voluntarily established a system of unit pricing.

Section 624. Subsection (1) of section 501.138, Florida Statutes, is amended to read:

501.138 Advertising of previews or trailers; standards.—

(1) Any motion picture theater owner or operator who desires to exhibit, on the same program, a motion picture which has received a “G” rating and which he or she advertises as “G” rated, and a preview or trailer of a motion picture which has not received a “G” rating, shall in all such advertising of

the program give notice to the public of the exhibition of the preview or trailer in the manner provided in subsections (2) and (3).

Section 625. Subsection (1) and paragraph (a) of subsection (2) of section 501.141, Florida Statutes, are amended to read:

501.141 Delivery of crated item; written statement of satisfaction; right to cancel.—

(1) As used in this section, “statement of satisfaction” means any receipt, statement, or document by which any retail noncommercial buyer of goods, which goods are to be delivered or are delivered in any box, crate, or other covering which hides the goods from view, is requested or required, as a condition upon receipt of any such purchased goods, to attest satisfaction with the condition or operation of any goods delivered or to be delivered by a seller or her or his representative.

(2) Every statement of satisfaction requested or required to be attested or agreed to in this state shall be evidenced by a writing as provided in this section.

(a) The person or business entity requesting or requiring any such statement of satisfaction shall present to and obtain from the buyer her or his signature to the statement of satisfaction which designates, as the date of the attestation of or agreement to the statement, the date on which the buyer actually signs and which contains a statement of buyer’s rights which complies with paragraph (b).

Section 626. Paragraph (f) of subsection (3), paragraph (f) of subsection (4), and paragraph (f) of subsection (6) of section 501.143, Florida Statutes, are amended to read:

501.143 Dance Studio Act.—

(3) REGISTRATION OF BALLROOM DANCE STUDIOS.—

(f) The department may deny or refuse to renew the registration of any dance studio based upon a determination that the dance studio, or any of its directors, officers, owners, or general partners:

1. Has failed to meet the requirements for initial application or renewal as provided in this section; or

2. Has been convicted of a crime involving fraud, dishonest dealing, or any other act of moral turpitude; or

3. Has not satisfied any fine or penalty arising out of any administrative or civil enforcement action brought by any governmental agency or private person based upon conduct involving fraud, dishonest dealing, or any violation of this section; or

4. Has had a judgment entered against him or her in any action brought under ss. 501.201-501.213 by the Department of Legal Affairs or brought under this section by the department.

(4) **CONTRACT REQUIREMENTS.**—Every contract for ballroom dance studio services or lessons shall be in writing and shall be subject to this section. All provisions, requirements, and prohibitions which are mandated by this section shall be contained in the written contract before it is signed by the customer. A copy of the signed contract shall be given to the customer at the time the customer signs the contract.

(f) Every contract for the sale of future dance studio services or lessons which are paid for in advance or which the buyer agrees to pay for in future installment payments shall be in writing and shall contain in boldfaced type, under conspicuous caption, contractual provisions to the contrary notwithstanding, the following:

1. A provision for the penalty-free cancellation of the contract within 3 days, exclusive of holidays and weekends, of its making, upon the mailing or delivery of written notice to the ballroom dance studio. Written notice may be construed as any written expression of the customer to not be bound by the contract. The ballroom dance studio shall refund upon such notice all moneys paid under the contract except the amount for ballroom dance studio services or lessons actually rendered or to have been rendered, by contract, during the number of days prior to the cancellation notice. A refund shall be issued within 20 days after receipt of the notice of cancellation made within the 3-day notice.

2. A provision for the cancellation of the contract, if the buyer dies or becomes physically or mentally unable to avail himself or herself of the dance studio lessons or services or if the lessons or services cease to be offered as stated in the contract, after 3 business days of its making and release from further payments upon notice of cancellation. After 3 business days the studio shall charge only for the dance instruction and dance instruction services actually furnished under the agreement plus a reasonable and fair service fee. The studio shall refund the balance in three equal monthly installments, to be completed within not more than 90 days after receiving notice of cancellation.

3. Any provision in a dance contract, certificate, dance package, or brochure or other material from a dance studio that purports to waive, limit, restrict, or avoid any of the duties, obligations, or prescriptions of the dance studio, as provided in this section, is void and unenforceable and against public policy, unless it is necessitated by contractual arrangements with suppliers and fully disclosed.

(6) **PROHIBITED PRACTICES.**—It is a violation of this section for any person:

(f) To use any of the following or similar techniques or practices to mislead, coerce, or induce the purchase of dance studio lessons or dance studio services:

1. Requesting any customer to sign an uncompleted contract or agreement;

2. Misrepresenting to any customer what is or will be due or payable;
3. Using any single day “relay salesmanship” or consecutive sales talks with more than one representative, with or without the use of hidden listening devices;
4. Falsely assuring or representing to any customer that a given course of dance studio lessons will enable him or her to achieve a given standard of dancing proficiency;
5. Representing in any manner that a dancing instructor or job is obtainable at a studio or misrepresenting what such an instructor will be paid; or
6. Using any analyses, tests, studio competitions, or other artifices purportedly designed to evaluate dancing ability, progress, or proficiency when the artifices are not so designed or so used.

The department may employ investigators and conduct investigations of violations of this section.

Section 627. Subsection (2) of section 501.160, Florida Statutes, is amended to read:

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

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

Section 628. Subsections (1), (2), and (4) of section 501.206, Florida Statutes, are amended to read:

501.206 Investigative powers of enforcing authority.—

(1) If, by his or her own inquiry or as a result of complaints, the enforcing authority has reason to believe that a person has engaged in, or is engaging in, an act or practice that violates this part, he or she may administer oaths and affirmations, subpoena witnesses or matter, and collect evidence. Within 5 days, excluding weekends and legal holidays, after the service of a subpoena or at any time before the return date specified therein, whichever is longer, the party served may file in the circuit court in the county in which he or she resides or in which he or she transacts business and serve upon the enforcing authority a petition for an order modifying or setting aside the subpoena. The petitioner may raise any objection or privilege which would be available under this chapter or upon service of such subpoena in a civil action. The subpoena shall inform the party served of his or her rights under this subsection.

(2) If matter that the enforcing authority seeks to obtain by subpoena is located outside the state, the person subpoenaed may make it available to the enforcing authority or his or her representative to examine the matter at the place where it is located. The enforcing authority may designate representatives, including officials of the state in which the matter is located, to inspect the matter on his or her behalf, and he or she may respond to similar requests from officials of other states.

(4) The enforcing authority may request that an individual who refuses to comply with a subpoena on the ground that testimony or matter may incriminate him or her be ordered by the court to provide the testimony or matter. Except in a prosecution for perjury, an individual who complies with a court order to provide testimony or matter after asserting a privilege against self-incrimination to which he or she is entitled by law shall not have the testimony or matter so provided, or evidence derived therefrom, received against him or her in any criminal investigation or proceeding.

Section 629. Subsection (3) of section 501.207, Florida Statutes, is amended to read:

501.207 Remedies of enforcing authority.—

(3) Upon motion of the enforcing authority or any interested party in any action brought under subsection (1), the court may make appropriate orders, including, but not limited to, appointment of a master or receiver or sequestration or freezing of assets, to reimburse consumers found to have been damaged; to carry out a transaction in accordance with consumers' reasonable expectations; to strike or limit the application of clauses of contracts to avoid an unconscionable result; to order any defendant to divest herself or himself of any interest in any enterprise, including real estate; to impose reasonable restrictions upon the future activities of any defendant to impede her or him from engaging in or establishing the same type of endeavor; to order the dissolution or reorganization of any enterprise; or to grant other appropriate relief. The court may assess the expenses of a master or receiver against a person who has violated, is violating, or is otherwise likely to violate this part. Any injunctive order, whether temporary or permanent, issued by the court shall be effective throughout the state unless otherwise provided in the order.

Section 630. Section 501.2075, Florida Statutes, is amended to read:

501.2075 Civil penalty.—Except as provided in s. 501.2077, any person, firm, corporation, association, or entity, or any agent or employee of the foregoing, who is willfully using, or has willfully used, a method, act, or practice declared unlawful under s. 501.204, or who is willfully violating any of the rules of the department promulgated under this part, is liable for a civil penalty of not more than \$10,000 for each such violation. Willful violations occur when the person knew or should have known that his or her conduct was unfair or deceptive or prohibited by rule. This civil penalty may be recovered in any action brought under this part by the enforcing authority; or the enforcing authority may terminate any investigation or action upon agreement by the person, firm, corporation, association, or entity, or the agent or employee of the foregoing, to pay a stipulated civil penalty. The

department or the court may waive any such civil penalty if the person, firm, corporation, association, or entity, or the agent or employee of the foregoing, has previously made full restitution or reimbursement or has paid actual damages to the consumers who have been injured by the unlawful act or practice or rule violation. If civil penalties are assessed in any litigation, the enforcing authority is entitled to reasonable attorney's fees and costs. A civil penalty so collected shall accrue to the state and shall be deposited as received into the General Revenue Fund unallocated.

Section 631. Subsection (2) of section 501.2077, Florida Statutes, is amended to read:

501.2077 Violations involving senior citizen or handicapped person; civil penalties; presumption.—

(2) Any person who is willfully using, or has willfully used, a method, act, or practice in violation of this part, which method, act, or practice victimizes or attempts to victimize senior citizens or handicapped persons, and commits such violation when she or he knew or should have known that her or his conduct was unfair or deceptive, is liable for a civil penalty of not more than \$15,000 for each such violation.

Section 632. Subsections (1) and (2) of section 501.2105, Florida Statutes, are amended to read:

501.2105 Attorney's fees.—

(1) In any civil litigation resulting from an act or practice involving a violation of this part, except as provided in subsection (5), the prevailing party, after judgment in the trial court and exhaustion of all appeals, if any, may receive his or her reasonable attorney's fees and costs from the non-prevailing party.

(2) The attorney for the prevailing party shall submit a sworn affidavit of his or her time spent on the case and his or her costs incurred for all the motions, hearings, and appeals to the trial judge who presided over the civil case.

Section 633. Subsection (3) of section 501.32, Florida Statutes, is amended to read:

501.32 Definitions.—As used in this part:

(3) "Nonoriginal equipment manufacturer aftermarket crash part" means an aftermarket crash part made by any manufacturer other than the original vehicle manufacturer or her or his supplier.

Section 634. Subsection (1) of section 501.606, Florida Statutes, is amended to read:

501.606 Disclosures required of commercial telephone sellers.—

(1) With respect to any person identified pursuant to s. 501.605, an applicant for a license as a commercial telephone seller must state in his or her

application the identity of any affiliated commercial seller or salesperson who:

(a) Has been convicted of, or is under indictment or information for, racketeering or any offense involving fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property. Conviction includes a finding of guilt where adjudication has been withheld;

(b) Is involved in pending litigation or has had entered against him or her an injunction, a temporary restraining order, or a final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar document, in any civil or administrative action involving racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property or the use of any untrue, deceptive, or misleading representation or the use of any unfair, unlawful, or deceptive trade practice;

(c) Is, or ever has been, subject to any litigation, injunction, temporary restraining order, or final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar document or any restrictive court order relating to a business activity as the result of any action brought by a governmental agency, including any action affecting any license to do business or practice an occupation or trade;

(d) Has at any time during the previous 7 years filed for bankruptcy, been adjudged bankrupt, or been reorganized because of insolvency; or

(e) Has been a principal, director, officer, or trustee of, or a general or limited partner in, or had responsibilities as a manager in, any corporation, partnership, joint venture, or other entity that filed for bankruptcy, was adjudged bankrupt, or was reorganized because of insolvency within 1 year after the person held that position. The disclosures required in paragraph (d) shall be applicable insofar as they relate to the applicant commercial telephone seller, as well as any affiliated commercial seller or salesperson.

Section 635. Paragraph (h) of subsection (1) and paragraph (a) of subsection (2) of section 501.607, Florida Statutes, are amended to read:

501.607 Licensure of salespersons.—

(1) An applicant for a license as a salesperson must submit to the department, in such form as it prescribes, a written application for a license. The application must set forth the following information:

(h) Whether the applicant is involved in pending litigation or has had entered against her or him an injunction, a temporary restraining order, or a final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar document, in any civil or administrative action involving racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property or the use of any untrue, deceptive, or misleading representation or the use of any unfair, unlawful, or deceptive trade practice.

(2) An application filed pursuant to this section must be verified and be accompanied by:

(a) A verified statement of the commercial telephone seller with whom the salesperson will be associated, expressing the intention of the commercial telephone seller to associate the salesperson with her or him and to be responsible for the activities of the salesperson.

Section 636. Subsection (1) of section 501.609, Florida Statutes, is amended to read:

501.609 License renewal.—

(1) Each person licensed under the provisions of this part must renew his or her license annually by paying the fee for licensing and submitting to the department the application required by this part.

Section 637. Subsection (4) of section 501.611, Florida Statutes, is amended to read:

501.611 Security.—

(4) The department or any governmental agency, on behalf of any injured purchaser or any purchaser herself or himself who is injured by the bankruptcy of the applicant or her or his breach of any agreement entered into in her or his capacity as a licensee, may bring and maintain an action to recover against the bond, letter of credit, or certificate of deposit.

Section 638. Subsections (1) and (2) of section 501.613, Florida Statutes, are amended to read:

501.613 General disclosures.—

(1) Within the first 30 seconds of a telephone call, a commercial telephone seller or salesperson shall identify herself or himself by stating her or his true name, the company on whose behalf the solicitation is being made, and the consumer goods or services being sold.

(2) If a sale or an agreement to purchase is completed, the commercial telephone seller must inform the purchaser of her or his cancellation rights as provided in this part, state the license number issued by the department for both the commercial telephone seller and the salesperson, and give the street address of the commercial telephone seller.

Section 639. Subsections (6) and (9) of section 501.615, Florida Statutes, are amended to read:

501.615 Written contract; cancellation; refund.—

(6) A person who purchases goods or services pursuant to a solicitation governed by this part must be given a refund, credit, or replacement, at his or her option, if:

(a) The goods or services are defective, are not as represented, or if any item described pursuant to this part is not received as promised.

(b) He or she returns the goods or makes a written request for the refund, credit, or replacement within 7 days after he or she receives the goods, services, prize, or premium, whichever is received later. A return or request is timely if shipment is made or the request is postmarked, properly addressed and postage prepaid, within the time provided by this section.

(9) Any contract, agreement to purchase, or written confirmation executed by a seller which purports to waive the purchaser's rights under this part is against public policy and shall be unenforceable, provided that an agreement between a purchaser and commercial telephone seller to extend the delivery time of an item to more than 30 days shall be enforceable if the commercial telephone seller has a reasonable basis to expect that he or she will be unable to ship the item within 30 days and if the agreement is included in the terms of the written confirmation.

Section 640. Subsections (1) and (2) of section 501.617, Florida Statutes, are amended to read:

501.617 Investigative powers of enforcing authority.—

(1) If, by her or his own inquiries or as a result of complaints, the enforcing authority has reason to believe that a person has engaged in, or is engaging in, an act or practice that violates the provisions of this part, she or he may administer oaths and affirmations, subpoena witnesses or matter, and collect evidence. Within 10 days after the service of a subpoena or at any time before the return date specified therein, whichever is longer, the party served may file in the circuit court in the county in which she or he resides or in which she or he transacts business and serve upon the enforcing authority a petition for an order modifying or setting aside the subpoena. The petitioner may raise any objection or privilege which would be available under this part or upon service of such subpoena in a civil action. The subpoena shall inform the party served of her or his rights under this subsection.

(2) If matter that the enforcing authority seeks to obtain by subpoena is located outside the state, the person subpoenaed may make it available to the enforcing authority or her or his representative to examine the matter at the place where it is located. The enforcing authority may designate representatives, including officials of the state in which the matter is located, to inspect the matter on her or his behalf, and she or he may respond to similar requests from officials of other states.

Section 641. Subsection (4) of section 501.621, Florida Statutes, is amended to read:

501.621 Attorney's fees and costs.—

(4) The attorney for the prevailing party shall submit a sworn affidavit of his or her time spent on the case and his or her costs incurred.

Section 642. Subsection (2) of section 501.623, Florida Statutes, is amended to read:

501.623 Criminal penalties.—

(2) No commercial telephone seller shall employ or be affiliated with a ~~salesperson~~ salesman who is soliciting purchasers and who is not currently licensed with the department pursuant to the provisions of this part. Any person who violates the provisions of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 643. Section 501.922, Florida Statutes, is amended to read:

501.922 Violation.—The registration with the department of any person who violates this act or fails to comply with any of the provisions of this act may be subject to suspension or revocation. Any suspension shall not exceed 1 year. In addition to any suspension or revocation, for each violation, the department may levy a fine which shall not exceed \$5,000 per violation. If the person in violation of ss. 501.91-501.923 fails to pay the fine within 30 days, then his or her registration may be suspended until such time as the fine is paid. All fines collected by the department shall be deposited in the General Inspection Trust Fund.

Section 644. Paragraph (a) of subsection (5) of section 501.925, Florida Statutes, is amended to read:

501.925 Used watches; sales regulated.—

(5) A watch shall be deemed to be used if:

(a) It as a whole or the case thereof or the movement thereof has been previously sold to or acquired by any person who bought or acquired the same for her or his use or the use of another, but not for resale; provided, however, that a watch which has been so sold or acquired and is thereafter returned either through an exchange or for credit to the original individual, firm, partnership, association or corporation who sold or passed title to such watch within 10 days after the sale or acquisition thereof, shall not be deemed to be a used watch for the purpose of this section, if such vendor shall keep a written or printed record setting forth the name of the purchaser thereof, the date of the sale or transfer thereof and the serial number, if any, on the case and the movement, and any other distinguishing numbers or identification marks, which said record shall be kept for at least 2 years from the date of such sale or transfer and shall be open for inspection during all business hours by the sheriff or any prosecuting officer of the county in which such vendor is engaged in business; or

Section 645. Subsection (5) of section 502.032, Florida Statutes, is amended to read:

502.032 Milkfat testers; permit, fees, application, suspension or revocation, records.—Any person who tests milk or milk products for milkfat content by weight, volume, chemical, electronic, or other method when the result of such test is used as a basis for payment for the milk or milk products must hold a milkfat tester's permit issued by the department.

(5) Each milkfat tester shall keep records of milk fat tests conducted by him or her for a period of 1 year, and such records shall be available for inspection by the department at all reasonable hours.

Section 646. Subsection (2) of section 503.041, Florida Statutes, is amended to read:

503.041 License fee; report required; penalty.—

(2) The department shall furnish an application form that requires the applicant to state that she or he will comply with all provisions of this chapter and applicable rules. The application must be signed by the owner, a partner if the plant is a partnership, or an authorized officer or agent if the plant is a corporation. All licenses expire June 30 of each year. The initial application must be accompanied by a license fee of \$200. The annual license renewal fee is \$100.

Section 647. Paragraphs (a) and (b) of subsection (2) of section 504.31, Florida Statutes, are amended to read:

504.31 Organic food advisory council.—

(2) PROCEDURE.—

(a) The members of the council at their first meeting shall organize by electing a ~~chair~~ chairman, a vice ~~chair~~ chairman, and a secretary, and shall adopt rules of procedure governing their deliberations. The terms of such officers shall be for 1 year.

(b) The council shall meet at the call of its chair ~~chairman~~, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules, but at least once a year.

Section 648. Section 506.01, Florida Statutes, is amended to read:

506.01 Devices to be filed in offices.—Any person engaged in manufacturing, bottling or selling soda waters, mineral or aerated waters, porter, ale, beer, cider, ginger ale, small beer, lager beer, weiss beer, white beer or other beverages or medicine, medical preparations, perfumery, oils, compounds or mixtures, in bottles, siphons, fountains, tins or kegs, with her or his name or other marks or devices branded, stamped, engraved, etched, blown, impressed or otherwise produced upon such bottles, siphons, fountains, tins or kegs, or the boxes used by her or him may file in the office of the clerk of the county in which her or his principal place of business is situated, or if such person shall manufacture or bottle out of this state, then in any county in this state, and also with the Department of State, a description of the name, marks or devices so used by her or him and cause such description to be printed once each week, for three weeks successively, in a newspaper published in the county in which said notice may have been filed.

Section 649. Section 506.03, Florida Statutes, is amended to read:

506.03 Search warrant.—When any person or his or her agent shall make oath before any judge having jurisdiction in the district where the offense is committed that he or she has reason to believe and does believe that any of his or her bottles, boxes, siphons, fountains, tins, or kegs, a description of which has been filed and published as aforesaid, are being

unlawfully used or filled or had by any person manufacturing or selling soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, small beer, lager beer, weiss beer, white beer, or other beverages or medicine, medical preparations, perfumery, oils, compounds, or mixtures, or that any junk dealer or dealers in secondhand articles, vendor of bottles, or other person, has any such bottles, boxes, siphons, fountains, tins, or kegs in his or her possession or secreted in any place, the said judge shall thereupon issue a search warrant signed by him or her with his or her name of office, to any sheriff and his or her deputies or any police officer or other person authorized by law to execute process, commanding the officer or person forthwith to search the property described in the warrant or the person named, for the property specified, and to bring the same before the court having jurisdiction of the offense.

Section 650. Section 506.06, Florida Statutes, is amended to read:

506.06 Unlawful to counterfeit trademark.—When any person or any association or union of working persons ~~men~~ adopts or uses and files as provided in s. 506.07 any label, trademark, term, wording, design, device, color or form of advertisement for the purpose of designating, making known or distinguishing any goods, wares, merchandise or other products of labor as having been made, manufactured, produced, prepared, packed or put on sale by such person or association or union of working persons ~~men~~, or by a member or members of such association or union, it shall be unlawful to counterfeit or imitate such label, trademark, term, wording, design, device, color or form of advertisement, or knowingly to use, sell, offer for sale, or in any other way utter or circulate any counterfeit or imitation of any such label, trademark, term, wording, design, device, color or form of advertisement.

Section 651. Subsection (7) of section 506.09, Florida Statutes, is amended to read:

506.09 Civil remedies.—

(7) The motion or application filed pursuant to subsection (2) shall include a statement advising the person from whom the goods are seized that the undertaking has been filed, informing her or him of her or his right to object to the undertaking on the ground that the surety or the amount of the undertaking is insufficient, and advising her or him that such objection to the undertaking must be made within 30 days after the date of seizure.

Section 652. Section 506.12, Florida Statutes, is amended to read:

506.12 Procuring the filing of trademark or other form of advertisement by fraudulent representations; penalty.—Any person who shall, for himself or herself or on behalf of any other person, association or union, procure the filing of any label, trademark, term, wording, design, device, color or form of advertisement with the Department of State, by making any false or fraudulent representations or declaration, verbally or in writing, or by any fraudulent means, shall be liable to pay any damage sustained in consequence of such filing, to be recovered by or on behalf of the party injured

thereby in any court having jurisdiction, and shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 653. Section 506.16, Florida Statutes, is amended to read:

506.16 Proceedings by owner to recover possession of milk bottles and to protect rights.—The owner of such receptacle as is described in ss. 506.14 and 506.15 shall have the right to take and recover the same from any person unlawfully possessing the same, and may maintain actions of replevin, or other appropriate actions, to preserve her or his rights therein. The court also may grant an injunction restraining any person from doing any of the acts and things herein declared to be unlawful. In any action taken by the owner, and prosecuted to a successful conclusion, for the recovery of such property or to protect her or his rights therein, she or he shall be allowed all costs of such proceeding, including a reasonable attorney's fee.

Section 654. Section 506.19, Florida Statutes, is amended to read:

506.19 Protection of owners of marked or branded field boxes or other specified containers; recordation.—Any person being the owner of field boxes, pallets, crates, containers, or receptacles used in the general production, harvesting, packing, transportation, or marketing of fruits or vegetables or their byproducts in the state may adopt for his or her exclusive use and ownership a particular mark or brand to designate and distinguish his or her ownership thereof and may identify his or her field boxes, pallets, crates, containers, or receptacles so used with such mark or brand in the form of such combinations, initials, symbols, designs, or names as he or she may desire, by plainly and distinctly stamping, stenciling, painting, cutting, etching, or burning the same into or upon both ends or sides of such field boxes, pallets, crates, receptacles, or containers, and the presence of such identifying mark or brand on any field box, pallet, crate, container, or receptacle whenever a copy or description thereof shall have been filed and recorded in the office of the Department of Agriculture and Consumer Services as herein provided for, shall, in any court and in any proceedings in this state, be prima facie evidence of the ownership of such boxes, pallets, crates, containers, or receptacles by the person in whose name such mark or brand may have been recorded, provided such mark or brand shall have been recorded with the Department of Agriculture and Consumer Services as herein provided and shall bear the registered number herein provided for.

Section 655. Section 506.20, Florida Statutes, is amended to read:

506.20 Filing and recording of marks and brands on field boxes.—Any person desiring to avail herself or himself of the benefits of ss. 506.19-506.28, may make application to the Department of Agriculture and Consumer Services and shall file with such department a true copy and description of such identifying mark or brand, which, if entitled thereto under the provisions of ss. 506.19-506.28, shall be filed and recorded by such department in a book to be provided and kept by it for that purpose, and the name of the owner of such brand or mark shall be likewise entered into such record, and such department shall then assign or designate a permanent registered number to the owner of such brand or mark, said number to be

assigned progressively as marks and brands are received and recorded, and the registered number so assigned shall then become a part of the registered brand or mark and shall plainly and distinctly be made to appear on such field boxes, pallets, crates, receptacles and containers, together with the identifying mark or brand referred to in s. 506.19 hereof. The department shall determine if such brand or mark so applied for is not a duplication of any brand or mark previously recorded by or with it, or does not so closely resemble the same as to be misleading or deceiving. If the brand or mark applied for does so resemble or is such a duplication of previously recorded brands or marks as to be misleading or deceiving, the application shall be denied and the applicant may file some other brand or mark in the manner described above. The books and records previously kept by the Secretary of State shall be transferred to the Commissioner of Agriculture upon the effective date of this act.

Section 656. Section 506.24, Florida Statutes, is amended to read:

506.24 Unauthorized possession of field boxes or other specified containers; penalty.—

(1) Any person who shall have in his or her unauthorized possession any field box, pallet, crate, receptacle, or container marked or branded with any mark or brand registered under the provisions of ss. 506.19-506.28, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) The possession by any person of any field box, pallet, crate, container, or receptacle so marked or branded, in the absence of written authority therefor, shall be prima facie evidence of the violation of the provisions of this section. However, the owner of such recorded or registered mark or brand may, in writing, authorize and designate any person to use or have in his or her possession any such field boxes, pallets, crates, containers, or receptacles.

Section 657. Section 506.25, Florida Statutes, is amended to read:

506.25 Alteration or obliteration of marks or brands on field boxes or other specified containers.—If any person shall alter, change, remove or obliterate the registered mark or brand on any field box, pallet, crate, container, or receptacle other than his or her own or shall cause or procure the same to be done, with intent to claim the same, or to prevent identification thereof by the true owner, or use or have in his or her possession, any such field box, pallet, crate, container, or receptacle on which the registered mark or brand has been altered, changed, removed or obliterated, such person shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 658. Section 506.26, Florida Statutes, is amended to read:

506.26 Purchase of marked field boxes or other specified containers from one other than owner.—It is unlawful for any person to receive or to purchase any field box, pallet, crate, container, or receptacle marked or branded with registered mark or brand as herein provided, from any person other

than the registered owner thereof or her or his duly authorized agent, and proof of such receipt or purchase shall be prima facie evidence in any court of this state that such receiver or purchaser received or purchased the same with knowledge that it was stolen or embezzled property, and upon conviction thereof, such receiver or purchaser shall be punished as for receiving stolen or embezzled property.

Section 659. Section 506.27, Florida Statutes, is amended to read:

506.27 Refusal to deliver marked field boxes or other specified containers to owner upon demand.—The refusal of any person in possession thereof to deliver any field box, pallet, crate, container, or receptacle so marked or branded and registered as herein provided, to the registered owner of the same or his or her duly authorized agent, upon the demand of such registered owner or authorized agent, when said demand is accompanied with a display of the certificate of recordation and number of the same, as furnished to the registered owner by the Department of Agriculture and Consumer Services, shall be prima facie evidence in any court of this state of a fraudulent intent to convert said field box, pallet, crate, container, or receptacle to the use of the person or persons, so in possession of the same, and to deprive the registered owner thereof, and any person convicted of a violation shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 660. Section 506.30, Florida Statutes, is amended to read:

506.30 Application of law.—Any person or corporation engaged in manufacturing milk, cream, ice cream, coated ice cream, imitation ice cream, ice-cream mixtures or compounds or any other similar product frozen substantially to the consistency of ice cream; or any person or corporation engaged in bottling or selling milk, cream, ice cream, coated ice cream, imitation ice cream, ice-cream mixtures or compounds or any other similar product frozen substantially to the consistency of ice cream, in ice-cream containers, packages, wrappers, cabinets, refrigerators, bottle, barrel, box, tin, ice-cream container, package, wrapper, cabinet, refrigerator, equipment or other receptacles or containers upon which her or his or its name, or other marks or devices used by her or him or it, are branded, stamped, engraved, etched, blown, embossed, impressed or otherwise produced, may register her or his or its name, mark or device as hereinafter provided, and upon completing the registration and publication of any such name, mark or device, shall thereupon be deemed the proprietor of such name, mark or device and of every bottle, box, tin, ice-cream container, package, wrapper, cabinet, refrigerator, equipment or other receptacle or container upon which such name, mark or device may be branded, stamped, engraved, etched, blown, embossed, impressed or otherwise produced.

Section 661. Section 506.34, Florida Statutes, is amended to read:

506.34 Proof of publication; notice of intention.—The affidavit of the printer or publisher of a newspaper published within this state, or of her or his foreman or clerk, showing the publication of the description required by s. 506.32, annexed to a printed copy of the notice as published, shall be

received as evidence of the publication, and also of the matters therein stated, in all courts and places.

Section 662. Section 506.35, Florida Statutes, is amended to read:

506.35 Containers; illegal use.—No person or corporation other than the owner or proprietor of such name, mark or device shall fill or cause to be filled with milk, cream, ice cream, coated ice cream, imitation ice cream, ice-cream mixtures or compounds or any other similar product frozen substantially to the consistency of ice cream, or shall sell, buy, give, take, possess, use, dispose of or traffic in any box, siphon, tin, ice-cream container, package, wrapper, cabinet, refrigerator, equipment or other receptacle or container which is so marked or distinguished with or by any name, mark or device, a description of which shall have been filed as provided in s. 506.31; or shall deface, obliterate, destroy, cover up or otherwise remove or conceal any such name, mark or device thereon, without the written consent of, or unless the same shall have been purchased from, the owner or proprietor thereof; provided, however, that no person or corporation to whom such milk, cream, ice cream, coated ice cream, imitation ice cream, ice-cream mixtures or compounds or any other similar product frozen substantially to the consistency of ice cream, shall have been delivered in bottles, boxes, tins, ice-cream containers, packages, wrappers, cabinets, refrigerators, equipment or other receptacles or containers by the owners or proprietors thereof, shall be deemed to have violated the provisions of this law by having in his or her possession any such marked receptacles, unless such person or corporation, willfully and with the intention of unlawfully converting, retains such receptacles for a period longer than is reasonably necessary after the contents placed therein by the owner or proprietor thereof have been removed therefrom.

Section 663. Section 506.36, Florida Statutes, is amended to read:

506.36 Penalties for illegal use.—Any person, acting for himself or her-self or as the agent of any person, firm or corporation, who shall violate the provisions of this law, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 664. Section 506.37, Florida Statutes, is amended to read:

506.37 Containers; obtaining possession.—The owner or proprietor or her or his or its agents may take possession of any such bottles, boxes, tins, ice-cream container, packages, wrapper, cabinets, refrigerators, equipment or other receptacles or containers used in violation of this law, whether such receptacles or containers be full or partly full of any liquid, beverage or other substance, or empty, and shall not be liable in damages therefor, or for any trespass arising out of such taking possession. And if the party or parties having possession of such receptacles or containers refuses to empty the same of the contents contained therein immediately upon notice and demand by the owner or proprietor thereof or her or his or its agent, then such owner, proprietor or agent may empty such receptacle or container and shall not be liable therefor.

Section 665. Section 506.38, Florida Statutes, is amended to read:

506.38 Complaints before county court judge.—When any person shall complain on oath or affirmation to any county court judge that any person or corporation has violated any of the provisions of this law, the court to whom such complaint is presented shall issue process at the suit of the state, which process may be either a summons or a warrant against the person or corporation so charged, which process, when in the nature of a warrant, shall be returnable forthwith, and when in the nature of a summons shall be returnable in not less than 2 nor more than 10 days, and shall be served at least 1 day before its return. Such complaint and such process shall state in general terms a violation of this law. On the return of such process, or at any time to which the trial of the case shall be adjourned, the county court judge issuing the same shall proceed in a summary manner to hear testimony and determine and give judgment in the case without the filing of any pleadings, and if the defendant or defendants be convicted, shall impose the penalty or penalties by this law provided. It shall not be necessary to take or keep any record of the evidence or testimony taken on such trial. Service of summons upon a person other than a corporation may be made either personally or by leaving a copy at his or her dwelling house or usual place of abode; service upon a corporation may be made by delivering a copy of the summons to any officer or employee of such corporation who may be found in this state.

Section 666. Section 506.39, Florida Statutes, is amended to read:

506.39 Search warrants; procedure to obtain.—Whenever any person shall make oath before any county court judge that she or he has reason to believe and does believe that any bottles, boxes, tins, ice-cream containers, packages, wrappers, cabinets, refrigerators, equipment, or other receptacles or containers, the property of any person or corporation who has complied with the provisions of ss. 506.31 and 506.32, are being filled, sold, bought, given, taken, possessed, used, disposed of, or trafficked in by any person or corporation in violation of this law, such county court judge shall issue a search warrant to discover and obtain such receptacles or containers and to bring before such judge the person or persons in whose possession such bottles, boxes, tins, ice cream containers, packages, wrappers, cabinets, refrigerators, equipment, or other receptacles or containers may be found, and if any such receptacles or containers are found in the possession of any such person or persons in violation of the provisions of this law, the county court judge who issued the process shall proceed to trial and judgment in the manner provided for in s. 506.38, and upon judgment, shall also award possession of the receptacles or containers so taken under such warrant to the owners or proprietors thereof.

Section 667. Section 506.42, Florida Statutes, is amended to read:

506.42 Penalties, generally; judgments and pleadings.—Any person or corporation which violates the provisions of this law, or of any of the amendments hereof or supplements hereto, shall be liable to a penalty of \$5 for the first offense, for each bottle, box, tin, ice-cream container, package, cabinet, refrigerator, equipment or other receptacle or container so filled, sold,

bought, given, taken, used, disposed of, trafficked in or possessed in violation of the provisions of this law; and a penalty of double that amount for the second and each subsequent offense; which penalty may be recovered by an action for the recovery of a debt, by the owner or proprietor of any such bottle, box, tin, ice-cream container, package, wrapper, cabinet, refrigerator, equipment or other receptacle or container, or his or her agent in any court of this state having cognizance thereof. The pleadings shall conform in all respects to the practice prevailing in the court in which any such action shall be instituted, but no pleading or process shall be set aside or invalidated by reason of any formal or technical defects therein if the same contains a statement of the nature of the alleged violation and of the section of this law alleged to have been violated, and upon the attention of the court being called to any such formal or technical defect the same shall be immediately corrected and the said pleading or process amended as a matter of course, and as to all other defects in pleadings or process the same may be amended in the discretion of the court, as in any other action or proceeding in said court.

Section 668. Section 506.43, Florida Statutes, is amended to read:

506.43 Executions on judgments.—When judgment shall be rendered against any defendant other than a corporation, execution shall be issued against her or his goods or chattels without any order of the court for that purpose first had and obtained. In case judgment shall be rendered against a body corporate, execution shall be issued against the goods and chattels of said corporation as in other actions of debt.

Section 669. Section 506.44, Florida Statutes, is amended to read:

506.44 Prior registrations recognized.—Any person or corporation having heretofore filed in any of the offices mentioned in s. 506.31, a description of the names, marks or devices, upon her or his or its property therein mentioned, and having caused the same to be published, according to the law existing at the time of such filing and publication, shall not be required to again file and publish such description in order to be entitled to the benefits of this law, but may avail herself, himself, or itself of any or all of the provisions, modes of procedure and methods of protection provided for herein, marks or devices under and according to the provisions of this law.

Section 670. Section 506.511, Florida Statutes, is amended to read:

506.511 Transportation of dairy cases, egg baskets, poultry boxes, or bakery containers; bill of lading.—It is unlawful for any common carrier or private carrier for hire, except those carriers engaged in the transporting of dairy products, eggs, poultry, or bakery products to and from farms or bakeries where produced, to receive or transport any container marked with a registered name or mark unless such carrier has in his or her possession a bill of lading or invoice therefor.

Section 671. Subsection (2) of section 509.111, Florida Statutes, is amended to read:

509.111 Liability for property of guests.—

(2) The operator of a public lodging establishment is not liable or responsible to any guest for the loss of wearing apparel, goods, or other property, except as provided in subsection (1), unless such loss occurred as the proximate result of fault or negligence of such operator, and, in case of fault or negligence, the operator is not liable for a greater sum than \$500, unless the guest, prior to the loss or damage, files with the operator an inventory of the guest's ~~his~~ effects and the value thereof and the operator is given the opportunity to inspect such effects and check them against such inventory. The operator of a public lodging establishment is not liable or responsible to any guest for the loss of effects listed in such inventory in a total amount exceeding \$1,000.

Section 672. Subsection (3) of section 509.213, Florida Statutes, is amended to read:

509.213 Emergency first aid to choking victims.—

(3) This section shall not be construed to impose upon a public food service establishment or employee thereof a legal duty to render such emergency assistance, and any such establishment or employee shall not be held liable for any civil damages as the result of such act or omission when the establishment or employee acts as an ordinary reasonably prudent person ~~man~~ would have acted under the same or similar circumstances.

Section 673. Subsection (2) of section 509.281, Florida Statutes, is amended to read:

509.281 Prosecution for violation; duty of state attorney; penalties.—

(2) Any operator who obstructs or hinders any agent of the division in the proper discharge of the agent's ~~his~~ duties; who fails, neglects, or refuses to obtain a license or pay the license fee required by law; or who fails or refuses to perform any duty imposed upon it by law or rule is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Each day that such establishment is operated in violation of law or rule is a separate offense.

Section 674. Subsection (1) of section 509.504, Florida Statutes, is amended to read:

509.504 Cancellation.—

(1) A purchaser has the right to cancel her or ~~his~~ contract within the time period and in the manner described in paragraph (a) and to receive a refund of all sums paid to the offeror within the time period and in the manner described in paragraph (b). Any attempt by an offeror, tour generator, or salesperson to misrepresent this absolute right to cancel to a purchaser is a violation of this act.

(a) The following capitalized language must appear in at least 10-point type in close proximity to the purchaser's signature line on the contract:

“YOU MAY CANCEL THIS CONTRACT WITHOUT ANY PENALTY OR OBLIGATION UNTIL MIDNIGHT OF THE 5TH DAY AFTER THE DATE YOU SIGN THIS CONTRACT, UNLESS THE 5TH DAY FALLS ON A SUNDAY OR NATIONAL HOLIDAY, IN WHICH EVENT, YOU MAY CANCEL THIS CONTRACT WITHOUT PENALTY OR OBLIGATION UNTIL MIDNIGHT ON THE FIRST BUSINESS DAY FOLLOWING SUCH SUNDAY OR NATIONAL HOLIDAY. IF YOU DECIDE TO CANCEL THIS CONTRACT, YOU MUST NOTIFY THE TRUSTEE IN WRITING OF YOUR CANCELLATION. YOUR CANCELLATION SHALL BE EFFECTIVE UPON THE DATE POSTMARKED AND SHALL BE MAILED TO ...(Name of Trustee)... AT ...(Address of Trustee)... ANY ATTEMPT TO MISREPRESENT YOUR ABSOLUTE CANCELLATION RIGHT IS UNLAWFUL.”

(b) The contract shall also include the following statement: “Within 20 days after the trustee receives your written cancellation, the trustee shall refund to you the total amount of all payments which you have made under the contract, provided that such refunds may be made either by check or, if you used a credit card, by credit to your credit card account.”

Section 675. Subsection (3) of section 509.508, Florida Statutes, is amended to read:

509.508 Prize and gift promotional offers.—

(3) If a prospective purchaser meets all eligibility requirements stated in a prize and gift promotional offer, a prize, gift, or other item offered pursuant to a prize and gift promotional offer must be delivered to the prospective purchaser on the day she or he appears to claim it, whether or not the prospective purchaser ~~he~~ executes a membership camping contract.

Section 676. Subsection (4) of section 514.011, Florida Statutes, is amended to read:

514.011 Definitions.—As used in this chapter:

(4) “Public bathing place” means a body of water, natural or modified by humans ~~man~~, for swimming, diving, and recreational bathing, together with adjacent shoreline or land area, buildings, equipment, and appurtenances pertaining thereto, used by consent of the owner or owners and held out to the public by any person or public body, irrespective of whether a fee is charged for the use thereof. The bathing water areas of public bathing places include, but are not limited to, lakes, ponds, rivers, streams, and artificial impoundments.

Section 677. Subsection (1) of section 516.02, Florida Statutes, is amended to read:

516.02 Loans; lines of credit; rate of interest; license.—

(1) A person must not engage in the business of making consumer finance loans unless she or he is authorized to do so under this chapter or other statutes and unless the person ~~he~~ first obtains a license from the department.

Section 678. Subsection (4) of section 516.031, Florida Statutes, is amended to read:

516.031 Finance charge; maximum rates.—

(4) DIVIDED LOANS.—No licensee shall induce or permit any borrower to split up or divide any loan. No licensee shall induce or permit any person, or any husband and wife, jointly or severally, to become obligated to the licensee ~~him~~, directly or contingently or both, under more than one contract of loan at the same time, for the purpose, or with the result, of obtaining a greater finance charge than would otherwise be permitted by this section.

Section 679. Subsection (1) of section 516.12, Florida Statutes, is amended to read:

516.12 Records to be kept by licensee.—

(1) The licensee shall keep and use in her or his business such books, accounts, and records in accordance with sound and accepted accounting practices to enable the department to determine whether such licensee is complying with the provisions of this chapter and with the rules and regulations lawfully made by the department hereunder. Every licensee shall preserve such books, accounts, and records, including cards used in the card system, if any, for at least 2 years after making the final entry on any loan recorded therein.

Section 680. Section 516.16, Florida Statutes, is amended to read:

516.16 Confession of judgment; power of attorney; contents of notes and security.—No licensee shall take any confession of judgment or any power of attorney. Nor shall a licensee ~~he~~ take any note, promise to pay, or security that does not state the actual amount of the loan, the time for which it is made, and the rate of interest charged, nor any instrument in which blanks are left to be filled after execution. However, with respect to a line of credit, the note, promise to pay, or security need not state the time for which it is made.

Section 681. Subsection (1) of section 516.35, Florida Statutes, is amended to read:

516.35 Credit insurance must comply with credit insurance act.—

(1) Tangible property offered as security may be reasonably insured against loss for a reasonable term, considering the circumstances of the loan. If such insurance is sold at standard rates through a person duly licensed by the Department of Insurance and if the policy is payable to the borrower or any member of her or his family, it shall not be deemed to be a collateral sale, purchase, or agreement even though a customary mortgagee clause is attached or the licensee is a coassured.

Section 682. Subsections (6), (9), (10), and (18) of section 517.021, Florida Statutes, are amended to read:

517.021 Definitions.—When used in this chapter, unless the context otherwise indicates, the following terms have the following respective meanings:

(6)(a) “Dealer” includes any of the following:

1. Any person, other than an associated person registered under this chapter, who engages, either for all or part of her or his time, directly or indirectly, as broker or principal in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.

2. Any issuer who through persons directly compensated or controlled by the issuer engages, either for all or part of her or his time, directly or indirectly, in the business of offering or selling securities which are issued or are proposed to be issued by the issuer.

(b) The term “dealer” does not include the following:

1. Any licensed practicing attorney who renders or performs any of such services in connection with the regular practice of her or his profession;

2. Any bank authorized to do business in this state, except nonbank subsidiaries of a bank;

3. Any trust company having trust powers which it is authorized to exercise in this state, which renders or performs services in a fiduciary capacity incidental to the exercise of its trust powers;

4. Any wholesaler selling exclusively to dealers;

5. Any person buying and selling for her or his own account exclusively through a registered dealer or stock exchange; or

6. Pursuant to s. 517.061(11), any person associated with an issuer of securities if such person is a bona fide employee of the issuer who has not participated in the distribution or sale of any securities within the preceding 12 months and who primarily performs, or is intended to perform at the end of the distribution, substantial duties for, or on behalf of, the issuer other than in connection with transactions in securities.

(9) “Guaranty” means a writing in which one party either agrees, or holds itself out to the public as agreeing, to pay the indebtedness of another when due, including, without limitation, payments of principal and interest on a bond, debenture, note, or other evidence of indebtedness, without resort by the holder to any other obligor, whether or not such writing expressly states that the person signing is signing as a guarantor. An agreement that is not specifically denominated as a guaranty shall nevertheless constitute a guaranty if the holder of the underlying indebtedness or her or his representative or trustee has the right to sue to enforce the guarantor’s obligations under the guaranty. Words of guaranty or equivalent words which otherwise do not specify guaranty of payment create a presumption that payment, rather than collection, is guaranteed by the guarantor. Any guaranty in writing is enforceable notwithstanding any statute of frauds.

(10)(a) “Investment adviser” includes any person who for compensation engages for all or part of her or his time, directly or indirectly, or through publications or writings, in the business of advising others as to the value of securities or as to the advisability of investments in, purchasing of, or selling of securities, except a dealer whose performance of these services is solely incidental to the conduct of her or his business as a dealer and who receives no special compensation for such services.

(b) The term “investment adviser” does not include the following:

1. Any licensed practicing attorney or certified public accountant who renders or performs any of such services in connection with the regular practice of her or his profession;

2. Any bank authorized to do business in this state;

3. Any bank holding company as defined in the Bank Holding Company Act of 1956, as amended, authorized to do business in this state;

4. Any trust company having trust powers which it is authorized to exercise in the state, which trust company renders or performs services in a fiduciary capacity incidental to the exercise of its trust powers;

5. Any person who renders investment advice exclusively to insurance or investment companies; or

6. Any person who does not hold herself or himself out to the general public as an investment adviser and has no more than 15 clients within 12 consecutive months in this state.

(18) “Underwriter” means a person who has purchased from an issuer or an affiliate of an issuer with a view to, or offers or sells for an issuer or an affiliate of an issuer in connection with, the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking; except that a person shall be presumed not to be an underwriter with respect to any security which she or he has owned beneficially for at least 1 year; and, further, a dealer shall not be considered an underwriter with respect to any securities which do not represent part of an unsold allotment to or subscription by the dealer as a participant in the distribution of such securities by the issuer or an affiliate of the issuer; and, further, in the case of securities acquired on the conversion of another security without payment of additional consideration, the length of time such securities have been beneficially owned by a person includes the period during which the convertible security was beneficially owned and the period during which the security acquired on conversion has been beneficially owned.

Section 683. Subsection (10) of section 517.141, Florida Statutes, is amended to read:

517.141 Payment from the fund.—

(10) All payments and disbursements made from the Securities Guaranty Fund shall be made by the Treasurer upon a voucher signed by the Comptroller, as head of the department, or such agent as she or he may designate.

Section 684. Subsections (1) and (2) of section 517.191, Florida Statutes, are amended to read:

517.191 Injunction to restrain violations.—

(1) When it shall appear to the department, either upon complaint or otherwise, that a person has engaged or is about to engage in any act or practice constituting a violation of this chapter or a rule or order hereunder, the department may investigate; and whenever it shall believe from evidence satisfactory to it that any such person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of this chapter or a rule or order hereunder, the department may, in addition to any other remedies, bring action in the name and on behalf of the state against such person and any other person concerned in or in any way participating in or about to participate in such practices or engaging therein or doing any act or acts in furtherance thereof or in violation of this chapter to enjoin such person or persons from continuing such fraudulent practices or engaging therein or doing any act or acts in furtherance thereof or in violation of this chapter. In any such court proceedings, the department may apply for, and on due showing be entitled to have issued, the court's subpoena requiring forthwith the appearance of any defendant and her or his employees, associated persons, or agents and the production of documents, books, and records that may appear necessary for the hearing of such petition, to testify or give evidence concerning the acts or conduct or things complained of in such application for injunction. In such action, the equity courts shall have jurisdiction of the subject matter, and a judgment may be entered awarding such injunction as may be proper.

(2) In addition to all other means provided by law for the enforcement of any temporary restraining order, temporary injunction, or permanent injunction issued in any such court proceedings, the court shall have the power and jurisdiction, upon application of the department, to impound and to appoint a receiver or administrator for the property, assets, and business of the defendant, including, but not limited to, the books, records, documents, and papers appertaining thereto. Such receiver or administrator, when appointed and qualified, shall have all powers and duties as to custody, collection, administration, winding up, and liquidation of said property and business as shall from time to time be conferred upon her or him by the court. In any such action, the court may issue orders and decrees staying all pending suits and enjoining any further suits affecting the receiver's or administrator's custody or possession of the said property, assets, and business or, in its discretion, may with the consent of the presiding judge of the circuit require that all such suits be assigned to the circuit court judge appointing the said receiver or administrator.

Section 685. Subsection (2) of section 517.311, Florida Statutes, is amended to read:

517.311 False representations; deceptive words; enforcement.—

(2) It is unlawful for any person registered or required to be registered under any section of this chapter, including such persons and issuers within the purview of ss. 517.051 and 517.061, to misrepresent that such person has been sponsored, recommended, or approved, or that her or his abilities or qualifications have in any respect been passed upon, by the state or any agency or officer of the state or by the United States or any agency or officer of the United States.

Section 686. Subsection (4) of section 518.11, Florida Statutes, is amended to read:

518.11 Investments by fiduciaries; prudent investor rule.—

(4) The following terms or comparable language in the investment powers and related provisions of a governing instrument shall be construed as authorizing any investment or strategy permitted under this section: “investments permissible by law for investment of trust funds,” “legal investments,” “authorized investments,” “using the judgment and care under the circumstances then prevailing that ~~persons~~ men of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital,” “prudent trustee rule,” “prudent person rule,” and “prudent investor rule.”

Section 687. Paragraph (c) of subsection (1) and subsections (4) and (5) of section 520.07, Florida Statutes, are amended to read:

520.07 Requirements and prohibitions as to retail installment contracts.—

(1)

(c) The seller shall deliver to the buyer, or mail to ~~the buyer~~ him at his or her address shown on the contract, a copy of the contract signed by the seller. Before the transaction is consummated, a copy of the retail installment contract, or a separate statement by which the disclosures required by this section are made and on which the buyer and seller are identified, shall be delivered to the buyer. Until the seller has delivered or mailed to the buyer a copy of the retail installment contract, a buyer who has not received delivery of the motor vehicle shall have the right to rescind ~~the~~ his agreement and to receive a refund of all payments made and return of all goods traded in to the seller on account of or in contemplation of the contract or, if such goods cannot be returned, the value thereof. Any acknowledgment by the buyer of delivery of a copy of the contract, if contained in the contract, shall appear directly above or adjacent to the buyer's signature.

(4) The amount, if any, included for insurance which may be purchased by the holder of the retail installment contract may not exceed the applicable premiums chargeable in accordance with the rates filed with the Department of Insurance. If dual interest insurance on the motor vehicle is purchased by the holder, it shall, within 30 days after execution of the retail

installment contract, send or cause to be sent to the buyer a policy or policies or certificate of insurance, written by an insurance company authorized to do business in this state, clearly setting forth the amount of the premium, the kind or kinds of insurance, the coverages, and all the terms, exceptions, limitations, restrictions, and conditions of the contract or contracts of insurance. Nothing in this act shall impair or abrogate the right of a buyer, as defined herein, to procure insurance from an agent and company of his or her own selection as provided by the insurance laws of this state; and nothing contained in this act shall modify, amend, alter, or repeal any of the insurance laws of the state, including any such laws enacted by the 1957 Legislature.

(5) If any insurance is canceled, or the premium adjusted, unearned insurance premium refunds received by the holder and any unearned finance charges thereon shall, at his or her option, be credited to the final maturing installments of the contract or paid to the buyer, except to the extent applied toward payment for similar insurance protecting the interests of the buyer and the holder, or either of them. The finance charge on the original transaction shall be separately computed:

(a) With the premium for the canceled or adjusted insurance included in the “amount financed”; and

(b) With the premium for the canceled insurance or the amount of the premium adjustment excluded from the “amount financed.”

The difference in the finance charge resulting from these computations shall be the portion of the finance charge attributable to the canceled or adjusted insurance, and the unearned portion thereof shall be determined by the use of the rule of 78ths. “Cancellation of insurance” occurs at such time as the seller or holder receives from the insurance carrier the proper refund of unearned insurance premiums.

Section 688. Subsection (4) of section 520.08, Florida Statutes, is amended to read:

520.08 Finance charge limitation.—

(4) Any holder may purchase or acquire or agree to purchase or acquire from any seller any contract on such terms and conditions as may be agreed upon between them. Filing of the assignment, notice to the buyer of the assignment, and any requirement that the holder maintain dominion over the payments or the motor vehicle if repossessed shall not be necessary to the validity of a written assignment of a contract as against creditors, subsequent purchasers, pledgees, mortgagees, and lien claimants of the seller. Unless the buyer has notice of the assignment of her or his contract, payment thereunder made by the buyer to the last known holder of such contract shall be binding upon all subsequent holders.

Section 689. Section 520.10, Florida Statutes, is amended to read:

520.10 Refinancing retail installment contract.—The holder of a contract, upon request by the buyer, may extend the scheduled due date of all

or any part of any installment or installments or deferred payment or payments or renew or restate the unpaid balance of such contract, the amount of the installments, and the time schedule therefor and may collect for such extension, deferment, renewal, or restatement a refinance charge computed as follows: In the event the unpaid balance of the contract is extended, deferred, renewed, or restated, the holder may compute the refinance charge on such amount, by adding to the unpaid balance the cost for insurance and other benefits incidental to the refinancing plus any accrued delinquency and collection charges, after deducting any refund which may be due the buyer at the time of the renewal or restatement by prepayment pursuant to s. 520.09, at the rate of the finance charge specified in s. 520.08(1) and by reclassifying the motor vehicle by its then year model, for the term of the refinancing agreement, but otherwise subject to the provisions of this act governing computation of the original finance charge. The provisions of this act relating to minimum finance charges under s. 520.08(2) and acquisition costs under the refund schedule in s. 520.09 shall not apply in calculating refinance charges on the contract extended, deferred, renewed, or restated. If all unpaid installments are deferred, the holder may, at her or his election, charge and collect for such deferment an amount equal to the difference between the refund required for prepayment in full under s. 520.09 as of the scheduled due date of the first deferred installment and the refund required for prepayment in full as of 1 month prior to said date times the number of months in which no scheduled payment is made.

Section 690. Paragraph (c) of subsection (1), paragraph (b) of subsection (6), and subsections (8) and (10) of section 520.34, Florida Statutes, are amended to read:

520.34 Retail installment contracts.—

(1)

(c) The seller shall deliver to the buyer, or mail to the buyer ~~him~~ at his or her address shown on the contract, a copy of the contract signed by the seller. Before the transaction is consummated, a copy of the retail installment contract, or a separate statement by which the disclosures required by this section are made and on which the buyer and seller are identified, shall be delivered to the buyer, except as provided in s. 520.35. Any acknowledgment by the buyer of delivery of a copy of the contract, if contained in the contract, shall appear directly above or adjacent to the buyer's signature.

(6)

(b) The holder of a retail installment contract, upon request by the buyer, may extend the scheduled due date of all or any part of any installment. In the event the unpaid time balance of the contract is extended, the holder may, at his or her election, charge and collect for each 30 days' extension an amount not to exceed one-twelfth of the maximum allowable rate per annum of the unpaid balance at the time of extension.

(8) The seller under any retail installment contract shall, within 30 days after execution of the contract, deliver or mail or cause to be delivered or mailed to the buyer at his or her aforesaid address any policy or policies of

insurance the seller has agreed to purchase in connection therewith, or in lieu thereof a certificate or certificates of such insurance. The amount, if any, included for insurance shall not exceed the applicable premiums chargeable in accordance with the rates filed with the Department of Insurance; if any such insurance is canceled, unearned insurance premium refunds and any unearned finance charges thereon received by the holder shall, at his or her option, be credited to the final maturing installments of the contract or paid to the buyer, except to the extent applied toward the payment for similar insurance protecting the interests of the seller and the holder or either of them. The finance charge on the original transaction shall be separately computed:

(a) With the premium for the canceled or adjusted insurance included in the "amount financed"; and

(b) With the premium for the canceled insurance or the amount of the premium adjustment excluded from the "amount financed."

The difference in the finance charge resulting from these computations shall be the portion of the finance charge attributable to the canceled or adjusted insurance, and the unearned portion thereof shall be determined by the use of the rule of 78ths. "Cancellation of insurance" occurs at such time as the seller or holder receives from the insurance carrier the proper refund of unearned insurance premiums. Nothing in this act shall impair or abrogate the right of a buyer to procure insurance from an agent and company of his or her own selection, as provided by the insurance laws of this state; and nothing contained in this act shall modify, alter, or repeal any of the insurance laws of this state.

(10) After payment of all sums for which the buyer is obligated under a contract, and upon written demand made by the buyer, the holder shall deliver or mail to the buyer, at his or her last known address, one or more good and sufficient instruments to acknowledge payment in full and shall release all security in the goods.

Section 691. Section 520.36, Florida Statutes, is amended to read:

520.36 Mail order and telephone sales.—Retail installment contracts negotiated and entered into by mail or telephone without personal solicitation by salespersons ~~salesmen~~ or other representatives of the seller, when a catalog of the seller or other printed solicitation of business which is distributed and made available generally to the public clearly sets forth the cash price and other terms of sales to be made through such medium, may be made as provided in this section. All of the provisions of this part relating to contracts shall apply to such sales except that the seller shall not be required to deliver a copy of the contract to the buyer as provided in s. 520.34(1)(c), and if the contract when received by the seller contains any blank spaces, the seller may insert in the appropriate blank space the amounts of money and other terms which are set forth in the seller's catalog or other printed solicitation which is then in effect. In lieu of sending the buyer a copy of the contract as provided in s. 520.34(1)(c), the seller shall deliver to the buyer, not later than the date the first payment is due, a

written statement of all disclosures required by this part. The seller shall be required to deliver a copy of the contract to the buyer at any time not later than when the first payment is due.

Section 692. Subsection (4) of section 520.61, Florida Statutes, is amended to read:

520.61 Definitions.—As used in this act:

(4) “Debt consolidation” means any money advanced to an owner or the owner’s his assignee in any connection with a home improvement contract.

Section 693. Subsection (2) of section 520.68, Florida Statutes, is amended to read:

520.68 Persons not required to be licensed.—No home improvement finance seller’s or seller’s license shall be required under this act of any person when acting in any capacity or type of transaction set forth in this section:

(2) A plumber, electrician, architect, engineer, residential designer, or landscape architect who is required by state or local law to attain standards of competency or experience as a prerequisite to engaging in such craft or profession and who is acting exclusively within the scope of the craft or profession for which he or she is currently licensed pursuant to such other law. The installation of central heating and air-conditioning systems by such a person shall be deemed within the scope of such person’s craft or profession.

Section 694. Subsections (2) and (3) of section 520.74, Florida Statutes, are amended to read:

520.74 Provisions expressly prohibited.—No home improvement contract shall contain any provision by which:

(2) In the absence of the buyer’s default in the performance of any of her or his obligations, the holder may arbitrarily and without reasonable cause accelerate the maturity of any part or all of the amount owing thereunder;

(3) The buyer waives any right of action against the home improvement finance seller or holder of the home improvement contract, or other person acting on her or his behalf, for any illegal act committed in the collection of payments under the home improvement contract;

Section 695. Subsection (4) of section 520.76, Florida Statutes, is amended to read:

520.76 Insurance provisions, procurement, rates.—

(4) If the insurance is to be procured by the home improvement finance seller or holder, he or she shall, within 30 days after delivery of the goods and furnishing of the services under the home improvement contract, deliver or mail to the owner at his or her address as specified in the contract a copy of the policy or policies of insurance or a certificate or certificates of the insurance procured.

Section 696. Subsection (4) of section 520.78, Florida Statutes, is amended to read:

520.78 Finance charge limitation.—

(4) The buyer may be charged for, and there may be collected from him or her, reasonable fees and costs actually to be paid for construction authorizations and similar permits issued by public agencies and for title search, title insurance, and services of an attorney relating to any real property mortgage, lien, or other encumbrance taken, granted, or reserved pursuant to the contract.

Section 697. Paragraph (a) of subsection (1) of section 520.83, Florida Statutes, is amended to read:

520.83 Cancellation of contract on payment in full.—

(1) For all home improvement contracts pursuant to which there is a lien, mortgage, or encumbrance upon the goods or real property, upon payment in full by the owner of the time sales price and other amounts lawfully due under a home improvement contract, the holder shall:

(a) Return to the owner the original instruments evidencing indebtedness under a home improvement contract which were signed by the owner or the owner's his sureties or guarantors in connection with such contract, excepting such instruments as are filed with a public official and retained in the files of such official;

Section 698. Subsection (4) of section 520.88, Florida Statutes, is amended to read:

520.88 Assignments of contracts or notes.—

(4) No right of action or defense arising out of the transaction which gave rise to the home improvement contract which the buyer has against the home improvement finance seller and which would be cut off by assignment shall be cut off by assignment of the contract to any third person, whether or not he or she acquired the contract in good faith and for value.

Section 699. Section 522.03, Florida Statutes, is amended to read:

522.03 Liability of broker for loss by reason of delayed account sales; measure of damages.—Any person doing the business of fruit or produce broker or commission merchant, receiving pineapples in carlots or less, grown in this state for shipment or consignment, and who has not returned an account sales showing the cost and expenses charged against the returns, also the name and address of the purchaser, within 10 days of the sale, shall be liable in damages for any loss by reason of delayed account sales. The loss a shipper or consignor may sustain on cars of pineapples consigned to the said person over what she or he could have obtained in other markets or by other agencies shall be considered a proximate damage from the delayed account sales. The measure of damages shall be the difference between the prevailing price in the general market at time of receipt by consignee and

the price received for such cars or less, of pineapples consigned to said broker or commission merchant between the time the account sales were due and the time received.

Section 700. Section 522.06, Florida Statutes, is amended to read:

522.06 Produce commission merchant to furnish shipper duplicate sales account; shipper to have access to certain records; proviso.—All persons engaged in the business of selling any produce or other article on commission in this state shall, if the produce or other thing of value be shipped to them by any person from any place in the state, when the same is sold by them, issue in duplicate a sales account which shall prescribe the kind, quantity, quality and price received for the produce or article sold, and with check shall cause same to be delivered by mail or otherwise, within 7 days of such sale, to the party furnishing the produce or article for sale, and should such sale be unsatisfactory to the party furnishing said produce or article for sale, then at her or his request the commission house shall furnish to her or him, within 5 days, the name or names, and residences of the purchaser of said produce or article; she or he shall also have access to the original sales papers and books showing the name and address of the purchaser of the produce or article, to the commission house selling said produce or article, and every reasonable assistance extended to her or him to her or his satisfaction in the matter; provided, that the provisions of this section shall not apply to any consignment, or part thereof, sold at retail or in less quantity than original packages, nor to produce consigned to retail merchants, nor to lumber or naval stores.

Section 701. Section 523.02, Florida Statutes, is amended to read:

523.02 Label required; contents.—Every person who shall hereafter produce or manufacture for sale or shipment, or for other than his or her own use or consumption, any spirits of turpentine or rosin in the state, shall plainly and conspicuously mark or write on the outside of the barrel containing the same the true nature of the contents of such barrel, in such manner as to indicate whether the same contains gum spirits of turpentine, wood turpentine, adulterated gum spirits of turpentine, adulterated wood turpentine, gum rosin or wood rosin, as defined by the provisions of this chapter. It shall be unlawful for any person to manufacture or produce any gum spirits of turpentine, or wood turpentine, whether pure or adulterated, or any gum rosin or wood rosin for sale, consignment or shipment, or to sell, ship, consign or in any manner dispose of the same, without plainly marking or writing in the manner aforesaid, upon the outside of the barrel containing the same, the words “gum spirits of turpentine,” or “wood turpentine,” or “adulterated gum spirits of turpentine,” or “adulterated wood turpentine,” or “gum rosin,” or “wood rosin,” as the case may be; and any person who shall violate the provisions of this section shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 702. Section 523.08, Florida Statutes, is amended to read:

523.08 Naval stores inspectors; prerequisites to appointment.—The Governor may appoint a supervising inspector of naval stores, one or more inspectors of naval stores at large, and may appoint in each port in this state

to which naval stores are, or may be consigned for sale or shipment, a sufficient number of competent inspectors for the business at such port. The supervising inspector, inspector of naval stores at large and inspectors of naval stores, shall be subject to removal by the Governor at any time for cause; and he or she shall have power at any time to fill vacancies in said offices. A person in order to be eligible to appointment to any of said offices must be a citizen of the state, must be skilled in the inspection of and familiar with the grades of naval stores, and competent to detect adulterations thereof. No person shall be appointed an inspector, inspector at large or supervising inspector of naval stores who, at the time of his or her appointment, is a producer or factor, or buyer of, or dealer in naval stores, or employed by or connected in business with any producer, factor, buyer or dealer; and it shall be unlawful and a cause for removal from office for any inspector, inspector at large or supervising inspector of naval stores, during his or her term of office, to become a producer, factor, buyer of or dealer in naval stores, or to be employed by or connected in business with any such producer, factor, buyer or dealer.

Section 703. Section 523.09, Florida Statutes, is amended to read:

523.09 Supervising inspector; powers and duties.—The supervising inspector of naval stores of the state shall have general supervision and direction of all inspectors of naval stores appointed under the provisions of this chapter, including the inspectors of naval stores at large, and it shall be his or her duty to see that they fairly and honestly perform all the duties imposed upon them and in the manner prescribed by this chapter, or otherwise provided by law, and to report to the Governor any delinquencies or irregularity of any such inspector, and shall have power to suspend any inspector for falsely grading or branding spirits of turpentine or rosin, and for failure or neglect to perform the duties imposed on him or her by the provisions of this chapter, and to investigate complaints made by producers or others, or the conduct of any such inspector in the discharge ~~by him~~ of the duties of ~~the his~~ office. The supervising inspector of naval stores shall also have supervision of all naval stores plants, yards, warehouses and other places where naval stores are kept or stored, and it shall be his or her duty to see that no adulteration of naval stores is permitted in this state, and to collect evidence of any adulteration which may come to his or her knowledge or be reported to him or her whenever the same may occur in this state; and to prosecute, or cause to be prosecuted, all persons violating the laws of this state in regard to the inspection, marking, branding or adulteration of naval stores. Said supervising inspector shall also perform such other duties as may be conferred upon him or her by law, but ~~he~~ shall not perform the duties of an inspector except when necessary to determine the correctness of any inspection made by an inspector. The supervising inspector of naval stores shall visit every yard where naval stores are stored for sale in the state at least twice each year, and shall thoroughly inspect said yards and examine the books and records of the local inspectors.

Section 704. Section 523.10, Florida Statutes, is amended to read:

523.10 Inspectors; powers and duties.—The inspectors of naval stores shall have power to make inspections of naval stores at the respective ports

for which they are appointed, but the inspector of naval stores at large shall have the power to make inspections at any point in the state. The compensation of the inspector of naval stores at large shall be the same for the like service as that hereinafter provided for inspectors of naval stores at ports. The supervisor of naval stores inspectors shall have his or her office in the port of this state receiving the largest amount of naval stores for sale or shipment.

Section 705. Section 523.11, Florida Statutes, is amended to read:

523.11 Bond of inspector and supervisor.—

(1) The supervising inspector of naval stores shall give bond in the sum of \$2,000 with a surety company qualified to do business in the state as surety, conditioned for the faithful discharge of all the duties of the ~~his~~ office, and the said bond, before being accepted, shall be approved by the Department of Banking and Finance of the state and filed in the office of the Department of State.

(2) Before any inspector of naval stores at large or any inspector of naval stores shall be commissioned, he or she shall qualify and give bond to the state in the sum of \$2,000, with a surety company qualified to do business in this state as surety, conditioned on the faithful discharge ~~by him~~ of the duties of the ~~his~~ office, which bond shall be approved in like manner as is provided by general law for the approval of bonds of county officers.

Section 706. Section 523.13, Florida Statutes, is amended to read:

523.13 Supervisor; inspection fees and compensation.—The supervising inspector of naval stores shall receive as compensation for his or her services one-half cent for each drum or barrel of rosin of approximately 500 pounds each, and for each 50 gallons of spirits of turpentine which may be inspected by inspectors appointed under the laws of this state, upon notice given as provided in s. 523.15, and liability for said fee shall be divided equally between the buyer and seller of such naval stores. In case of naval stores shipped in packages or receptacles other than barrels, the supervising inspector's ~~his~~ compensation shall be reckoned upon a basis of barrels or fractions thereof in the same manner as is provided for the payment of fees of inspectors under like conditions. The supervising inspector of naval stores shall have the right to recover from any person or corporation liable therefor the fees allowed him or her under this chapter in an action of assumpsit, or any other appropriate proceedings in any of the courts of this state having jurisdiction thereof.

Section 707. Section 523.14, Florida Statutes, is amended to read:

523.14 Adulterated products; forfeiture; procedure.—Any person who shall knowingly have in his or her possession, custody or control any spirits of turpentine for sale, consignment or shipment which shall be in any manner adulterated, or any gum rosin or wood rosin that is not marked on the outside of the barrel with the words and in the manner required by this chapter, shall forfeit the same to the state. Upon sworn information thereof from any person, it shall be the duty of the state attorney for the circuit in

which such property subject to forfeiture under this section may be found, to proceed forthwith to have the same forfeited and sold in the following manner: He or she shall file with the circuit court in the jurisdiction in which said property is found an information in the name of the state, setting forth the property whereof forfeiture is claimed, the owner thereof, or the person in whose possession the same is found, and the grounds for forfeiture; upon the filing of such information a summons and a writ of attachment, returnable to the return date not less than 10 days from the issuance thereof, shall be thereupon issued without bond or affidavit; such summons and writ of attachment shall be served in the manner provided for services of summons and writs of attachment in civil actions at law; the said writ of attachment shall be levied upon the property which it is sought to forfeit. Thereafter the case shall proceed in the same manner as a civil action at law. In case of attachment, and in the event the property shall be adjudged to be forfeited, the same shall be sold as is provided in the case of sales under execution. Any person claiming to own the property attached, or the person's his agent or attorney, may in such proceeding intervene and defend the said proceedings as in case of attachment. All such proceedings shall be governed in other respects by the rules of pleading and practice applicable to suits at law in cases of attachment. The proceeds arising from said sales shall be paid into the registry of the court, to be paid by the clerk under the order of the court as follows, to wit: One-half to the informant, to be paid upon the certificate of the state attorney that the person claiming the same is entitled thereto as the informer, upon whose information said action was begun, and the remainder to be paid to the county treasurer of the county in which the conviction is had as a part of the fine and forfeiture fund. Neither the supervising inspector nor any other inspector shall be permitted to receive any part of the proceeds of any such forfeiture; and if the information be given by any such inspector, the entire proceeds shall be paid into said fine and forfeiture fund. The penalties, punishments and other provisions of this chapter and the enforcement of the same, shall be deemed several, and the enforcement of one shall not preclude or affect the enforcement of any other.

Section 708. Section 523.15, Florida Statutes, is amended to read:

523.15 Inspectors; duty to attend at port on notice.—It shall be the duty of any inspector, upon notice given by any producer or agent of any producer, to attend at such time and place at or near the port for which he or she is appointed, or elsewhere if he or she be an inspector at large, as he may be required, for the purpose of inspecting spirits of turpentine and grading and weighing rosin, and to ascertain the true amount and quality thereof, and to mark the same by branding, or in some other durable manner, on each barrel, receptacle or package, and to issue at once in triplicate, sworn certificates of inspection, the original to be furnished to the producer or shipper; and the duplicate and triplicate to the buyer or factor and the supervising inspector of naval stores respectively; and the person for whom such inspection is made shall be at liberty to appeal to the supervising inspector to establish the incorrectness of such inspection. If any such article be fraudulently mixed, it shall be condemned by the inspector and sold as provided by s. 523.14.

Section 709. Section 523.18, Florida Statutes, is amended to read:

523.18 Inspectors; inspection fees and compensation.—An inspector of naval stores shall receive for his or her services in inspecting rosin, including weighing, inspection and cooperage, 6 cents per barrel of approximately 500 pounds, and for inspecting turpentine, including measuring of contents, inspection, bunging and cooperage, 9 cents per barrel of approximately 50 gallons, and no more, to be paid by the owner or party for whom the inspection is made. When any such rosin or turpentine shall be in any receptacle or package other than a barrel, the inspector for inspecting same shall receive for his or her services, per barrel or fraction thereof, the contents of such receptacle or package, the same fee or amount of compensation hereinbefore allowed for inspecting each barrel. An inspector shall not be obliged to inspect any article or quantity until the fee therefor shall have first been paid.

Section 710. Section 523.19, Florida Statutes, is amended to read:

523.19 Penalty for removing or changing inspection marks.—When any inspector or inspector of naval stores at large shall have placed his or her mark or brand on any barrel, receptacle, or package, as provided by law, it shall be unlawful for any person other than a duly qualified inspector of naval stores, appointed under the provisions of the laws of this state, or inspector appointed by the Department of Agriculture of the United States, to change, remove, alter, erase or in any manner change the same or cause the same to be done, and for each and every violation of this section the person violating the same shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$1,000 or imprisonment in the county jail for not more than 6 months, or by both such fine and imprisonment at the discretion of the court.

Section 711. Section 523.20, Florida Statutes, is amended to read:

523.20 Penalty for illegal or false markings by inspector.—If any inspector, or inspector of naval stores at large, shall knowingly and willfully place on any barrel, receptacle, or package of spirits of turpentine or rosin, any mark or brand falsely indicating the quality or quantity of the contents thereof, he or she shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 712. Section 523.21, Florida Statutes, is amended to read:

523.21 Inspectors; right to enter premises for inspection.—The supervising inspector of naval stores, inspector of naval stores at large, or any other inspector of naval stores, if he or she shall have reason to believe that any gum spirits of turpentine, or wood turpentine, has been or is adulterated in any manner, shall have the right to enter the place where the same is stored or kept, and to open any barrel, or barrels, in which the same may be, and to take therefrom a sufficient quantity, not exceeding a pint from every barrel or package, as a sample for analysis and inspection. Each such sample shall be sealed by the supervising inspector or other inspector of naval stores taking the same, who shall at the time write, mark, or label the same in such manner as to indicate the time and place of taking the same, and the

ownership of the barrel from which it is taken, as well as any other fact necessary to identify the sample so taken with the original. The owner claiming or custodian of such spirits of turpentine shall have the right to be present if he or she desires in person or by agent at such sampling, and to demand and receive of said supervising inspector or inspector of naval stores, a sample in all respects like that taken by such supervising inspector or inspector of naval stores. The analysis of any such sample so taken by such inspector or supervising inspector, sworn to by any witnesses competent to make such analysis, shall be admissible in evidence in any action wherein the grade or quality of the original from which the sample shall have been taken shall be in issue. A certificate of the result of an analysis made and certified by the department shall be prima facie evidence of the nature, composition, and character of the contents of the barrel from which said sample was taken, and of the correctness of such analysis and for such purpose admissible in evidence in any court of this state.

Section 713. Subsection (3) of section 525.16, Florida Statutes, is amended to read:

525.16 Administrative fine; penalties; prosecution of cases by state attorney.—

(3) The state attorney, or other prosecuting officer within the jurisdiction of whose court the case may come, shall prosecute all cases certified to him or her for prosecution by the department immediately upon receipt of the evidence transmitted by the department, or as soon thereafter as practicable.

Section 714. Paragraph (c) of subsection (2) of section 526.01, Florida Statutes, is amended to read:

526.01 Fraud and deception in sale of liquid fuel, lubricating oil, and greases; labeling; stop-sale order; penalty.—

(2)

(c) Previously used lubricating oil which has been rerefined by a refining process that has removed all the physical and chemical contaminants acquired in previous use and which meets the ASTM-SAE-API standards for fitness for its intended use is not subject to the labeling requirement of this subsection. A manufacturer of such rerefined oil shall register the his product with the Department of Environmental Protection and provide an affidavit of proof that the product meets the required standards.

Section 715. Section 526.03, Florida Statutes, is amended to read:

526.03 Imitating trade names or equipment under which liquid fuel is marketed; prohibition.—It is unlawful for any person to disguise or camouflage his or her own equipment, by imitating the design, symbol, trade name, or the equipment under which recognized brands of liquid fuels, lubricating oils, and similar products, are generally marketed.

Section 716. Section 526.06, Florida Statutes, is amended to read:

526.06 Mixing, blending, compounding, or adulteration of liquid fuels of same manufacturer prohibited; sale of gasohol.—It is unlawful for any person to mix, blend, compound, or adulterate the liquid fuel, lubricating oil, grease, or similar product of a manufacturer or distributor with a liquid fuel, lubricating oil, grease, or similar product of the same manufacturer or distributor of a character or nature different from the character or nature of the liquid fuel, lubricating oil, grease, or similar product so mixed, blended, compounded, or adulterated, and expose for sale, offer for sale, or sell the same as the unadulterated product of such manufacturer or distributor or as the unadulterated product of any other manufacturer or distributor. However, nothing in this chapter shall be construed to prevent the lawful owner of such products from applying his, her, or its own trademark, trade name, or symbol to any product or material. Alcohol-blended fuels which contain 90 percent unleaded gasoline and 10 percent ethyl alcohol of a minimum of 198 proof and a maximum 50 parts per million of acetic acid, commonly known as “gasohol,” may be sold at retail service stations for use in motor vehicles, as long as the gasoline component complies with current state specifications, until the American Society for Testing and Materials approves specifications for gasohol.

Section 717. Section 526.11, Florida Statutes, is amended to read:

526.11 Penalty for violations.—Any person who shall violate any of the provisions of this chapter shall, for a first offense, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and, for a second or subsequent offense, ~~he~~ shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 718. Subsection (1) of section 526.111, Florida Statutes, is amended to read:

526.111 Prohibited display of gasoline prices; penalty.—

(1) It is unlawful for any person, firm, or corporation to display, or allow to be displayed on his or her premises, any sign, placard, or other advertisement relating to the retail price of gasoline unless numerals thereon indicating fractions or portions of a whole number are at least half the size of the largest whole number on such sign, and no such price of gasoline shall be advertised without the tax included. No such person, firm, or corporation shall be required to post prices pursuant to this section.

Section 719. Subsection (7) of section 526.141, Florida Statutes, is amended to read:

526.141 Self-service gasoline stations; attendants; regulations.—

(7) The Insurance Commissioner, under her or his powers, duties, and functions as State Fire Marshal, shall promulgate rules and regulations for the administration and enforcement of this section, except for subsection (5) which shall be administered and enforced by the Department of Agriculture and Consumer Services.

Section 720. Paragraph (a) of subsection (2) of section 526.312, Florida Statutes, is amended to read:

526.312 Enforcement; private actions; injunctive relief.—

(2) On the application for a temporary restraining order or a preliminary injunction, the court, in its discretion having due regard for the public interest, may require or dispense with the requirement of a bond, with or without surety, as conditions and circumstances may require. If a bond is required, the amount shall not be greater than \$50,000. Upon proper application by the plaintiff, the court shall grant preliminary injunctive relief if the plaintiff shows:

(a) That he or she is a proper person to seek the relief requested.

The standards specified in paragraphs (a) and (b) shall also apply to actions for injunctive relief brought by the Department of Legal Affairs under s. 526.311.

Section 721. Paragraph (a) of subsection (1) of section 526.51, Florida Statutes, is amended to read:

526.51 Registration; renewal and fees; departmental expenses; cancellation or refusal to issue or renew.—

(1)(a) Application for registration of each brand of brake fluid shall be made on forms to be supplied by the department. The applicant shall give his or her name and address, the brand name of the brake fluid, state that he or she owns said brand name and has complete control over the product sold thereunder in Florida and name and address of resident agent in Florida. Application shall be accompanied by a certified report of an independent testing laboratory, setting forth the analysis of said brake fluid which shall show its quality to be not less than the specifications established by the department for brake fluids. A sample of not less than one-half gallon of brake fluid shall be submitted, in a container or containers, labeled exactly as containers of brake fluid will be labeled when sold, and such sample and container shall be analyzed and inspected by the Division of Standards in order that compliance with the department's specifications and labeling requirements may be verified. Upon approval of such application, the department shall register the brand name of such brake fluid and issue to the applicant a permit authorizing the registrant to sell such brake fluid in this state during the permit year specified in the permit.

Section 722. Subsection (3) of section 526.55, Florida Statutes, is amended to read:

526.55 Violation and penalties.—It is unlawful:

(3) Any person who violates any of the provisions of this part or any rule or regulation promulgated thereunder shall, for the first offense, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and, for a second or subsequent offense, he shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 723. Subsection (3) of section 527.021, Florida Statutes, is amended to read:

527.021 Registration of transport vehicles.—

(3) Vehicle registrations shall be submitted by the vehicle owner or lessee in conjunction with the annual renewal of his or her liquefied petroleum gas license, but no later than August 31 of each year. A dealer who does not submit the required vehicle registration by August 31 of each year is subject to the penalties in s. 527.13.

Section 724. Subsections (1) and (2) of section 527.04, Florida Statutes, are amended to read:

527.04 Proof of insurance required.—

(1) Before any license is issued, except to a dealer in appliances and equipment for use of liquefied petroleum gas or a category III liquefied petroleum gas cylinder exchange operator, the applicant must deliver to the department a good and sufficient bond in the amount of \$300,000, payable to the Governor of Florida, with the applicant as principal and a surety company authorized to do business in this state as surety. The bond must be conditioned upon the principal's compliance with the provisions of this chapter and the rules of the department with respect to the conduct of such business and shall indemnify and hold harmless all persons from loss or damage by reason of the principal's failure to comply. However, the aggregated liability of the surety may not exceed \$300,000. If the bond becomes insufficient, the department may require a new bond to be filed, and if the principal fails to do so, the department shall cancel the license issued and give the principal written notice that it is unlawful to engage in business without a license. If the applicant furnishes satisfactory evidence that he or she is covered by a primary policy of bodily injury liability and property damage liability insurance covering the products and operations with respect to such business, issued by an insurer authorized to do business in the state, for an amount not less than \$300,000 and that the premiums on such insurance are paid, an insurance affidavit or other satisfactory evidence of acceptable insurance coverage shall be accepted in lieu of the bond. A new bond is not required as long as the original bond remains sufficient and in force. If the licenseholder's insurance coverages as required by this subsection are canceled or otherwise terminated, the insurer must notify the department within 30 days after such cancellation or termination.

(2) Before any license is issued to a class III liquefied petroleum gas cylinder exchange operator, the applicant must deliver to the department a good and sufficient bond in the amount of \$100,000, payable to the Governor, with the applicant as principal and a surety company authorized to do business in this state as surety. The bond must be conditioned upon the principal's compliance with this chapter and the rules of the department with respect to the conduct of such business and must indemnify and hold harmless all persons from loss or damage by reason of the principal's failure to comply. However, the aggregated liability of the surety may not exceed \$100,000. If the bond becomes insufficient, the department may require a new bond to be filed, and if the principal fails to do so, the department shall

cancel the license and give the principal written notice that it is unlawful to engage in business without a license. If the applicant furnishes satisfactory evidence that he or she is covered by a primary policy of bodily injury liability and property damage liability insurance covering the products and operations with respect to such business, issued by an insurer authorized to do business in the state, for an amount not less than \$100,000 and that the premiums on such insurance are paid, an insurance affidavit or other satisfactory evidence of acceptable insurance coverage shall be accepted in lieu of the bond. A new bond is not required as long as the original bond remains sufficient and in force. If the licenseholder's insurance coverages required by this subsection are canceled or otherwise terminated, the insurer must notify the department within 30 days after such cancellation or termination.

Section 725. Subsection (2) of section 527.067, Florida Statutes, is amended to read:

527.067 Responsibilities of persons engaged in servicing liquefied petroleum gas equipment and systems and consumers, end users, or owners of liquefied petroleum gas equipment or systems.—

(2) Any consumer, owner, end user, or person who alters or modifies his or her LP gas equipment or system in any way shall, for informational purposes, notify the licensed dealer who next fills or otherwise services his or her LP gas system that such work has been performed. The department may promulgate rules prescribing the method of notification. Such notification shall be made within a reasonable time prior to the date the liquefied petroleum gas equipment or system is next filled or otherwise serviced in order that the equipment or system may be serviced in a safe manner.

Section 726. Section 527.09, Florida Statutes, is amended to read:

527.09 Injunction.—In addition to the penalties and other enforcement provisions of this chapter, in the event any person violates any provision of this chapter or any rule of the department, the department is authorized to resort to proceedings for injunction in the circuit court of the county where such person resides or has her or his principal place of business. The department may apply for such temporary and permanent orders as it deems necessary to restrain such person from engaging in any such businesses until such person has complied with the provisions of this chapter and such rules.

Section 727. Subsection (2) of section 527.11, Florida Statutes, is amended to read:

527.11 Minimum storage.—

(2) A category I liquefied petroleum gas dealer who has entered or who enters into a written agreement with a wholesaler that the wholesaler will provide liquefied petroleum gas to the dealer for a period of 12 continuous months is exempt from the requirements of subsection (1), if the wholesaler has at least 12,000 gallons (water capacity) of bulk storage within this state permanently connected for storage and used as such for each such dealer to

whom gas is sold. Such dealer must provide a copy of the written agreement to the department before her or his license may be issued, and the agreement must be submitted annually with the ~~his~~ license renewal application. A dealer who does not provide written proof of minimum storage may have her or his license denied, suspended, or revoked. However, no wholesaler shall be required under this section to have more than 300,000 gallons (water capacity) of permanent bulk storage for her or his entire operations in the state.

Section 728. Subsections (5) and (6) of section 527.16, Florida Statutes, are amended to read:

527.16 Witnesses and evidence.—

(5) If any person asks to be excused from attending or testifying or from producing any documents or other evidence in connection with any examination, hearing, or investigation being conducted on the ground that the testimony or evidence required of ~~him~~ may tend to incriminate him or her or subject him or her to a penalty or forfeiture and shall notwithstanding be directed to give such testimony or produce such evidence, he or she shall, if so directed by the department and the Department of Legal Affairs, nonetheless comply with such direction. The person ~~He~~ shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he or she may have testified or produced evidence, and no testimony given or evidence produced shall be received against him or her in any criminal action, investigation, or proceeding. However, no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him or her in such testimony, and the testimony or evidence given or produced shall be admissible against him or her in any criminal action, investigation, or proceeding concerning such perjury; nor shall the person ~~he~~ be exempt from the refusal, suspension, or revocation of any license, permission, or authority conferred or to be conferred pursuant to this chapter.

(6) Any such individual may execute, acknowledge, and file in the office of the department a statement expressly waiving such immunity or privilege in respect to any transaction, matter, or thing specified in such statement; and thereupon the testimony of such individual or such evidence in relation to such transaction, matter, or thing may be received or produced before any judge or justice, court, tribunal, grand jury, or otherwise; and, if so received or produced, such individual shall not be entitled to any immunity or privileges on account of any testimony he or she may so give or evidence so produced.

Section 729. Paragraph (a) of subsection (2) and subsection (3) of section 531.42, Florida Statutes, are amended to read:

531.42 Special police powers.—With respect to the enforcement of this chapter and rules pursuant thereto, the department is:

(2) Authorized to enter any commercial premises during normal business hours for the purpose of performing its duties.

(a) In the event that such premises, or part thereof, are not open to the public, the representative of the department shall first present his or her credentials before seeking entry thereto.

(3) On probable cause of violation of this chapter, empowered to stop any commercial vehicle, and the representative of the department may, after presentment of his or her credentials, inspect the contents, require that the person in charge of that vehicle produce any documents in that person's ~~his~~ possession concerning the contents, and require him or her to proceed with the vehicle to some specified place for inspection. Any person refusing such inspection or failing to comply with any proper instructions is in violation of this chapter and shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083. Such fine shall not be construed to be an elected alternative negating the authority to stop the vehicle, inspect the contents, or order that it be taken to a specified place.

Section 730. Section 531.43, Florida Statutes, is amended to read:

531.43 Misrepresentation of quantity.—No person shall sell or offer or expose for sale less than the quantity he or she represents, nor take any more than the quantity he or she represents, when, as buyer, the person ~~he~~ furnishes the weight or measure by means of which the quantity is determined.

Section 731. Subsection (1) of section 531.50, Florida Statutes, is amended to read:

531.50 Offenses and penalties.—

(1) Any person who willfully and knowingly violates the provisions enumerated in subsection (2) or any provision of this chapter or rules adopted pursuant thereto for which a specific penalty has not been prescribed shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Upon a subsequent conviction, he or she shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 732. Section 532.02, Florida Statutes, is amended to read:

532.02 Payment by other device.—Any person issuing coupons, punch-outs, tickets, tokens, or other device in lieu of cash as payment for labor, whether redeemable either wholly or partially in goods or merchandise, at the person's ~~his~~ or any other place of business, shall, on demand of any legal holder thereof:

(1) Be liable for the full face value thereof in current money of the United States, on or after the 30th day succeeding the day of issuance.

(2) Be liable for payment in current money of the United States, notwithstanding any contrary stipulation or provision, which may be therein contained.

(3) Be subject to suit brought thereon in any court of competent jurisdiction, upon failure to comply with either subsection (1) or subsection (2),

wherein any legal holder's recovery shall include the full face value of any such device, with legal interest from demand and, in the court's discretion, 10 percent of said amount as attorney's fees in the same suit.

Section 733. Subsection (1) of section 532.04, Florida Statutes, is amended to read:

532.04 Payment by direct deposit of funds.—

(1) None of the provisions of this chapter shall be deemed or construed to prohibit the payor of wages or salary from causing the amount of such wages or salary to be deposited directly to the account of the payee in a financial institution by electronic or other medium if such direct deposit has been authorized in writing by the payee and if the payee has designated in writing the financial institution of her or his choice in which such deposit is to be made. However, at the time the order for payment of such direct deposit is received by the drawee, the payor of such wages or salary must have sufficient funds or credit or an arrangement or understanding with the drawee for payment thereof.

Section 734. Section 533.05, Florida Statutes, is amended to read:

533.05 Duty of state attorney; attorney's fee.—In the event the regular attorney of the board of county commissioners, represents any person engaged in mining in this state, the state attorney of the circuit in which the county bringing the suit is situated, shall conduct the suit, and if the injunction shall be granted, the county shall recover from the defendant or defendants such reasonable attorney's fee as shall be allowed by the court, which shall be paid to the attorney conducting the suit, in addition to the compensation regularly paid her or him.

Section 735. Section 534.021, Florida Statutes, is amended to read:

534.021 Recording of marks or brands.—The department shall be the recorder of livestock marks or brands, and the marks or brands may not be recorded elsewhere in the state. Any livestock owner who uses a mark or brand to identify her or his livestock must register the mark or brand by applying to the department. The application must be made on a form prescribed by the department and must be accompanied by a facsimile of the brand applied for and a statement identifying the county in which the applicant has or expects to have livestock bearing the mark or brand to be recorded. The department shall, upon its satisfaction that the application meets the requirements of this chapter, record the mark or brand for exclusive statewide use by the applicant. If an application is made to record a mark or brand previously recorded, the department shall determine whether the county in which the mark or brand will be used is near enough to another county in which the previously recorded mark or brand is used to cause confusion or to aid theft or dishonesty, and if so, the department must decline to admit to record the mark or brand. If a conflict arises between the owner of any recorded mark or brand and another claiming the right to record the same mark or brand, the department must give preference to the present owner. The department shall charge and collect at the time of recording a fee of \$10 for each mark or brand. A person may not use

any mark or brand to which another has a prior right of record. It is unlawful to brand any animal with a brand not registered with the department.

Section 736. Section 534.041, Florida Statutes, is amended to read:

534.041 Renewal of certificate of mark or brand.—The registration of a mark or brand entitles the registered owner to exclusive ownership and use of the mark or brand for a period ending at midnight on the last day of the month 5 years from the date of registration. Registration may be renewed, upon application and payment of a renewal fee of \$5, for successive 5-year periods, each ending at midnight on the last day of the month 5 years from the date of renewal. At least 60 days prior to the expiration of a registration, the department shall notify by letter the registered owner of the mark or brand that, upon application for renewal and payment of the renewal fee, the department will issue a renewal certificate granting the registered owner exclusive ownership and use of the mark or brand for another 5-year period ending at midnight on the last day of the month 5 years from the date of renewal. Failure to make application for renewal within the month of expiration of a registration will cause the department to send a second notice to the registered owner by mail at her or his last known address. Failure of the registered owner to make application for renewal within 30 days after receipt of the second notice will cause the owner's mark or brand to be placed on an inactive list for a period of 12 months, after which it will be canceled and become subject to registration by another person.

Section 737. Subsection (1) of section 534.081, Florida Statutes, is amended to read:

534.081 Duties of law enforcement officers; appointment of special officers.—

(1) All law enforcement officers of the state or any political subdivision thereof, including investigators and agricultural law enforcement officers of the department and highway patrol officers ~~patrolmen~~, are authorized to stop any driver of a vehicle transporting livestock, carcasses of livestock, inedible raw products of livestock, used grease, used restaurant grease, or other such products and to require such driver to present for inspection the evidence of ownership, or authority for possession, of such livestock, carcasses of livestock, inedible raw products of livestock, used grease, used restaurant grease, or other such products.

Section 738. Subsection (1) of section 534.52, Florida Statutes, is amended to read:

534.52 Violations; refusal, suspension, revocation; penalties.—

(1) For any violation of ss. 534.47-534.53, the department may refuse to renew a license or may suspend or revoke a license already issued, upon notice to the applicant or licensee of its intention so to refuse, suspend, or revoke by giving its reasons therefor. The applicant or licensee shall have 15 days thereafter in which to request a hearing on the department's intentions to refuse, suspend, or revoke her or his license, and upon her or his

failure to do so within said time, refusal, suspension, or revocation shall become final without further procedure.

Section 739. Paragraph (a) of subsection (2) of section 534.54, Florida Statutes, is amended to read:

534.54 Cattle or hog processors; prompt payment; penalty; lien.—

(2)(a) A meat processor who purchases livestock from a seller, or any person, corporation, association, or other legal entity who purchases livestock from a seller for slaughter, shall make payment by cash or check for the purchase price of the livestock and actually deliver the cash or check to the seller or her or his representative at the location where the purchaser takes physical possession of the livestock on the day the transfer of possession occurs or shall wire transfer of funds on the business day within which the possession of said livestock is transferred. However, if the transfer of possession is accomplished after normal banking hours, said payment shall be made in the manner herein provided not later than the close of the first business day following said transfer of possession. In the case of “grade and yield” selling, the purchaser shall make payment by wire transfer of funds or by personal or cashier’s check by registered mail postmarked not later than the close of the first business day following determination of “grade and yield.”

Section 740. Subsections (2), (3), (6), and (7) of section 535.11, Florida Statutes, are amended to read:

535.11 Prohibition against administration of drugs; testing; search powers of department; penalties.—

(2) It is unlawful for any person to conduct any horse show or exhibition in which the person ~~he~~ knowingly allows to be shown or exhibited a horse that has been administered any forbidden substance in violation of this section. A horse may not be entered, shown, or exhibited in any class in any horse show or exhibition, or entered, exhibited, or sold in a horse sale, if it has been administered, in any manner, any forbidden substance, in violation of this section. The full use of modern therapeutic measures for the improvement and protection of the health of the horse is permitted if those measures comply with subsection (5).

(3) In the absence of substantial evidence to the contrary, trainers are responsible for a horse’s condition and for compliance with all laws and rules concerning the showing and exhibiting of horses and the sale of horses. If any trainer is prevented from performing her or his duties, including the responsibility for the condition of the horses in her or his care, by illness or other cause, or is absent from any show or sale where horses under her or his care are entered and stabled, the trainer must immediately notify the management of the horse show or sales company and, at the same time, appoint a substitute. The substitute and the regular trainer are equally responsible for the condition of the horses. When a minor exhibitor has no trainer, a parent or guardian must assume the responsibility of trainer.

(6) Any horse entered in any horse show or exhibition or entered in any horse sale is subject to examination by an approved veterinarian representing the Department of Agriculture and Consumer Services. The veterinarian may appoint a technician to perform certain duties under her or his direction. The examination may include physical, saliva, urine, and blood tests, and, with the trainer's consent, the administration of a drug to induce urination, or any other test or procedure, in the discretion of the veterinarian, necessary to effectuate the purposes of this section. The veterinarian may examine any or all horses in a class or in all classes in a show, or any horse entered in any class, whether in competition or not and whether or not on the show ground, or any horse withdrawn by an exhibitor within 24 hours prior to the class for which it has been entered, or any horse entered in any horse sale. Each exhibitor, trainer, and consignor must, upon request of the veterinarian, permit such test specimens as are necessary to be taken. Any person who refuses to submit a horse for examination or to cooperate with the veterinarian or her or his agents is subject to the penalties provided in s. 535.12.

(7) A representative of the Department of Agriculture and Consumer Services may enter the stable, tack room, automobile, van, or any other place within the enclosure of a horse show or horse sale to inspect or examine the personal effects and property of each trainer and each of her or his employees or agents. If a forbidden substance is found in any of such locations, the trainer responsible for the area in which the drug is found is subject to the penalties provided in s. 535.12. If such representative has reason to believe that bottles or containers contain a forbidden substance, the bottles or containers may be removed from the custody of any trainer or her or his employees or agents for testing. The Department of Agriculture and Consumer Services or its agents or any veterinarian representing the department is not liable for any actions lawfully taken in carrying out this subsection.

Section 741. Section 536.13, Florida Statutes, is amended to read:

536.13 Stamp or brand for logs.—Any person engaged in this state in the business of getting out, buying, selling, or manufacturing saw logs, may adopt a stamp or brand for such logs, of such design as she or he may select.

Section 742. Section 536.14, Florida Statutes, is amended to read:

536.14 Brands to be recorded by clerk of circuit court.—A person may execute a written declaration that she or he has adopted a brand, describing it, and after acknowledgment of such declaration before any officer authorized to take acknowledgments of deeds, may have the same recorded by the clerk of the circuit court in the record of mortgages, in any county in which she or he may desire to own or have in possession saw logs.

Section 743. Section 536.15, Florida Statutes, is amended to read:

536.15 May prevent use by others.—Any person who has had her or his brand recorded in any county, may prevent other persons from using the same in said county by a writ of injunction, restraining such use.

Section 744. Section 536.18, Florida Statutes, is amended to read:

536.18 Defacing the mark or brand of lumber and timber.—If any person shall fraudulently alter, change or deface the duly recorded mark, brand, or stamp of any lumber, logs or timber, or shall fraudulently mark, brand or stamp any unmarked or unstamped or unbranded lumber, logs or timber, with intent to claim the same or to prevent identification by the owner or owners thereof, the person so offending shall be punished as if she or he had committed larceny of the same property.

Section 745. Paragraph (m) of subsection (2) of section 538.03, Florida Statutes, is amended to read:

538.03 Definitions; applicability.—

(2) This chapter does not apply to:

(m) Any business that is registered with the Department of Revenue for sales tax purposes as an antique dealer pursuant to chapter 212 and that purchases secondhand goods from the property owner or her or his representative at the property owner's residence pursuant to a written agreement that states the name, address, and telephone number of the property owner and the type of property purchased.

Section 746. Subsections (2) and (3) and paragraph (g) of subsection (5) of section 538.09, Florida Statutes, are amended to read:

538.09 Registration.—

(2) The secondhand dealer shall furnish with her or his registration a complete set of her or his fingerprints, certified by an authorized law enforcement officer, and a recent fullface photographic identification card of herself or himself. The Department of Law Enforcement shall report its findings to the Department of Revenue within 30 days after the date fingerprint cards are submitted for criminal justice information.

(3) The secondhand dealer's registration shall be conspicuously displayed at her or his principal place of business. A secondhand dealer must hold secondhand goods at the registered location until 15 days after the secondhand transaction or until any extension of the holding period has expired, whichever is later, and must retain records of each transaction which is not specifically exempted by this chapter. A secondhand dealer shall not dispose of property at any location until the holding period has expired unless the transaction is specifically exempted by this chapter.

(5) In addition to the fine provided in subsection (4), registration under this section may be denied or any registration granted may be revoked, restricted, or suspended by the department if the department determines that the applicant or registrant:

(g) Has had a final judgment entered against her or him in a civil action upon grounds of fraud, embezzlement, misrepresentation, or deceit; or

In the event the department determines to deny an application or revoke a registration, it shall enter a final order with its findings on the register of secondhand dealers and their business associates, if any; and denial, suspension, or revocation of the registration of a secondhand dealer shall also deny, suspend, or revoke the registration of such secondhand dealer's business associates.

Section 747. Paragraph (c) of subsection (1) of section 538.15, Florida Statutes, is amended to read:

538.15 Certain acts and practices prohibited.—It is unlawful for a secondhand dealer or any employee thereof to do or allow any of the following acts:

(1) Knowingly make a transaction with:

(c) Any person using a name other than her or his own name or the registered name of her or his business.

Section 748. Paragraph (f) of subsection (2) of section 538.19, Florida Statutes, is amended to read:

538.19 Records required.—

(2) The following information must be maintained for each purchase transaction:

(f) A signed statement from the person delivering the regulated metals property stating that she or he is the rightful owner of, or is entitled to sell, the regulated metals property being sold.

Section 749. Section 538.20, Florida Statutes, is amended to read:

538.20 Inspection of regulated metals property and records.—During the usual and customary business hours of a secondary metals recycler, a law enforcement officer shall, after properly identifying herself or himself as a law enforcement officer, have the right to inspect:

(1) Any and all purchased regulated metals property in the possession of the secondary metals recycler, and

(2) Any and all records required to be maintained under s. 538.19.

Section 750. Paragraph (c) of subsection (1) of section 538.25, Florida Statutes, is amended to read:

538.25 Registration.—

(1) No person shall engage in business as a secondary metals recycler at any location without registering with the department.

(c) An applicant for a secondary metals recycler registration must be a natural person who has reached the age of 18 years or a corporation organized or qualified to do business in the state.

1. If the applicant is a natural person, the registration must include a complete set of her or his fingerprints, certified by an authorized law enforcement officer, and a recent fullface photographic identification card of herself or himself.

2. If the applicant is a partnership, all the partners must make application for registration.

3. If the applicant is a corporation, the registration must include the name and address of such corporation's registered agent for service of process in the state and a certified copy of statement from the Secretary of State that the corporation is duly organized in the state or, if the corporation is organized in a state other than Florida, a certified copy of the statement that the corporation is duly qualified to do business in this state.

Section 751. Paragraphs (b) and (c) of subsection (1), subsection (2), paragraph (b) of subsection (3), and subsections (5) and (6) of section 540.08, Florida Statutes, are amended to read:

540.08 Unauthorized publication of name or likeness.—

(1) No person shall publish, print, display or otherwise publicly use for purposes of trade or for any commercial or advertising purpose the name, portrait, photograph, or other likeness of any natural person without the express written or oral consent to such use given by:

(b) Any other person, firm or corporation authorized in writing by such person to license the commercial use of her or his name or likeness; or

(c) If such person is deceased, any person, firm or corporation authorized in writing to license the commercial use of her or his name or likeness, or if no person, firm or corporation is so authorized, then by any one from among a class composed of her or his surviving spouse and surviving children.

(2) In the event the consent required in subsection (1) is not obtained, the person whose name, portrait, photograph, or other likeness is so used, or any person, firm, or corporation authorized by such person in writing to license the commercial use of her or his name or likeness, or, if the person whose likeness is used is deceased, any person, firm, or corporation having the right to give such consent, as provided hereinabove, may bring an action to enjoin such unauthorized publication, printing, display or other public use, and to recover damages for any loss or injury sustained by reason thereof, including an amount which would have been a reasonable royalty, and punitive or exemplary damages.

(3) The provisions of this section shall not apply to:

(b) The use of such name, portrait, photograph, or other likeness in connection with the resale or other distribution of literary, musical, or artistic productions or other articles of merchandise or property where such person has consented to the use of her or his name, portrait, photograph, or likeness on or in connection with the initial sale or distribution thereof; or

(5) As used in this section, a person's "surviving spouse" is the person's surviving spouse under the law of her or his domicile at the time of her or his death, whether or not the spouse has later remarried; and a person's "children" are her or his immediate offspring and any children legally adopted by the person him. Any consent provided for in subsection (1) shall be given on behalf of a minor by the guardian of her or his person or by either parent.

(6) The remedies provided for in this section shall be in addition to and not in limitation of the remedies and rights of any person under the common law against the invasion of her or his privacy.

Section 752. Subsection (4) of section 540.09, Florida Statutes, is amended to read:

540.09 Unauthorized publication of photographs or pictures of areas to which admission is charged.—

(4) The remedies provided for in this section shall be in addition to and not in limitation of the remedies and rights of any person under the common law against the unauthorized sale or use for purposes of trade or advertising of photographs, drawings, or other visual representations of her or his property.

Section 753. Subsection (1) and paragraphs (b) and (d) of subsection (3) of section 542.22, Florida Statutes, are amended to read:

542.22 Suits for damages.—

(1) Any person who shall be injured in her or his business or property by reason of any violation of s. 542.18 or s. 542.19 may sue therefor in the circuit courts of this state and shall recover threefold the damages by her or him sustained, and the cost of suit, including a reasonable attorney's fee. The court shall award a reasonable attorney's fee to a defendant prevailing in any action under this chapter for damages or equitable relief in which the court finds there was a complete absence of a justiciable issue of either law or fact raised by the plaintiff.

(3) In any action under subsection (2):

(b) Any person on whose behalf an action is brought under subsection (2) may elect to exclude from adjudication the portion of the claim for monetary relief attributable to her or him by filing notice of such election with the court within such time as specified in the notice given pursuant to paragraph (a). The final judgment in such action shall be res judicata as to any claim under this section by any person on behalf of whom such action was brought and who fails to give such notice within the period specified in the notice given pursuant to paragraph (a).

(d) Monetary relief shall be distributed in such manner as the court in its discretion may authorize, subject to the requirement that any distribution procedure adopted shall afford each person a reasonable opportunity to secure her or his appropriate portion of the net monetary relief.

Section 754. Subsection (4) of section 542.235, Florida Statutes, is amended to read:

542.235 Limitations of actions and penalties against local governments and their officials and employees.—

(4) No criminal action shall be maintained pursuant to s. 542.21(2), and no civil penalties, damages, interest on damages, costs, or attorneys' fees shall be recovered pursuant to s. 542.21(1) or s. 542.22, against any local government official or employee for official conduct within the scope of her or his lawful authority, unless the official or employee has violated the provisions of this chapter for the purpose of deriving personal financial or professional gain or for the professional or financial gain of her or his immediate family or of any principal by whom the official is retained.

Section 755. Subsection (3) of section 542.27, Florida Statutes, is amended to read:

542.27 Enforcement authority.—

(3) Whenever the Attorney General, by her or his own inquiry or as a result of a complaint, suspects that a violation of this chapter or federal laws pertaining to restraints of trade is imminent, occurring, or has occurred, the Attorney General ~~he~~ may investigate such suspected violation.

Section 756. Paragraph (a) of subsection (2) of section 542.33, Florida Statutes, is amended to read:

542.33 Contracts in restraint of trade valid.—

(2)(a) One who sells the goodwill of a business, or any shareholder of a corporation selling or otherwise disposing of all of her or his shares in said corporation, may agree with the buyer, and one who is employed as an agent, independent contractor, or employee may agree with her or his employer, to refrain from carrying on or engaging in a similar business and from soliciting old customers of such employer within a reasonably limited time and area, so long as the buyer or any person deriving title to the goodwill from her or him, and so long as such employer, continues to carry on a like business therein. Said agreements may, in the discretion of a court of competent jurisdiction, be enforced by injunction. However, the court shall not enter an injunction contrary to the public health, safety, or welfare or in any case where the injunction enforces an unreasonable covenant not to compete or where there is no showing of irreparable injury. However, use of specific trade secrets, customer lists, or direct solicitation of existing customers shall be presumed to be an irreparable injury and may be specifically enjoined. In the event the seller of the goodwill of a business, or a shareholder selling or otherwise disposing of all her or his shares in a corporation breaches an agreement to refrain from carrying on or engaging in a similar business, irreparable injury shall be presumed.

Section 757. Section 544.04, Florida Statutes, is amended to read:

544.04 Duty of state attorney.—The state attorneys shall institute and prosecute all proper suits in their respective circuits in the name of the state

to enforce this chapter. Any citizen of this state also may institute and prosecute suit in her or his own name to enforce this chapter. In case decree shall be rendered in the circuit court in favor of the plaintiff, whether the state or an individual, the court may decree that the defendant or defendants pay a reasonable fee in the cause for the state attorney or plaintiff's solicitor therein. Nothing herein contained shall operate or be construed to deprive any person of any right to any damages, or of any remedy to recover damages which such person would have without this chapter in or about matter mentioned or included in this chapter.

Section 758. Section 544.05, Florida Statutes, is amended to read:

544.05 Compelling testimony of witnesses.—No person shall be excused from attending and testifying, or from producing books, papers, contracts, agreements, and documents on subpoena for the state, or as witness for the state, or on cross-examination for the state, in any prosecution, suit or proceeding, criminal or civil, authorized by or based upon this chapter or growing out of any violation thereof, when such prosecution, suit or proceeding is in the name of the state and prosecuted or carried on by the Department of Legal Affairs or state attorney, for the reason that the testimony or evidence, documentary or otherwise, required of her or him, may tend to incriminate the person him or subject her or him to a penalty or forfeiture. But no such person shall be prosecuted or subjected to any penalty or forfeiture on account of any transaction, matter or thing concerning which the person ~~he~~ may so testify or produce evidence; provided, that no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Section 759. Section 545.03, Florida Statutes, is amended to read:

545.03 Threats by manufacturer or wholesaler as prima facie evidence of intent to violate law.—Any threat, expressed or implied, made directly or indirectly to any motor vehicle dealer, by any manufacturer, or wholesale distributor on authority or with the knowledge of any such manufacturer, or wholesale distributor, that such person will discontinue to sell, or will terminate a contract to sell motor vehicles to such dealer unless such dealer finances the purchase or sale of motor vehicles only with or through a designated finance company or sells and assigns the conditional sales contracts, chattel mortgages, or other paper arising from her or his retail sales of motor vehicles only to a designated finance company, shall be prima facie evidence of the fact that such manufacturer or wholesale distributor has sold or intends to sell motor vehicles, on the condition or with the agreement or understanding prohibited in s. 545.02.

Section 760. Section 545.04, Florida Statutes, is amended to read:

545.04 Threats by finance company presumed to be made by manufacturer or wholesaler.—Any threat, express or implied, made directly or indirectly to any motor vehicle dealer by any finance company or agent thereof, who is affiliated with or controlled by any manufacturer or wholesale distributor of motor vehicles, that such manufacturer or wholesale distributor will terminate her or his contract with or cease to sell motor vehicles to such dealer unless such dealer finance the purchase or sale of motor vehicles only

with or through a designated finance company or sells and assigns the conditional sales contracts, chattel mortgages, or other paper arising from her or his retail sales of motor vehicles only to a designated finance company, shall be presumed to be made at the direction of and with the authority of such manufacturer or wholesale distributor of motor vehicles, and shall be prima facie evidence of the fact that such manufacturer or wholesale distributor of motor vehicles has sold or intends to sell motor vehicles on the condition or with the agreement or understanding prohibited in s. 545.02.

Section 761. Section 545.11, Florida Statutes, is amended to read:

545.11 Remedy for persons injured by violation of law.—In addition to the criminal and civil penalties herein provided, any person who is injured in her or his business or property by any other person, by reason of anything forbidden or declared to be unlawful by this chapter, may sue therefor in any court having jurisdiction thereof in the county where the defendant resides or is found, or any agent resides or is found, or where service may be obtained, and recover twofold the damages sustained by her or him, and the costs of suit. When it shall appear to the court before whom any proceeding under this chapter is pending, that the ends of justice require that other parties be brought before the court, the court may cause them to be made parties defendant and summoned, whether they reside in the county where such action is pending, or not.

Section 762. Subsections (3) and (4) of section 548.003, Florida Statutes, are amended to read:

548.003 State Athletic Commission.—

(3) The commission shall maintain an office in Tallahassee and any necessary branch offices. At the first meeting of the commission after June 1 of each year, the commission shall select a chair ~~chairman~~ from among its membership. Three members shall constitute a quorum and the concurrence of at least three members is necessary for official commission action.

(4) Each member of the commission shall be compensated at the rate of \$25 for each day she or he attends a commission meeting and shall be reimbursed for other expenses as provided in s. 112.061.

Section 763. Paragraphs (a) and (d) of subsection (1) of section 548.014, Florida Statutes, are amended to read:

548.014 Promoters and foreign copromoters; bonds or other security.—

(1)(a) Before any license is issued or renewed to a foreign copromoter and before any permit is issued to a foreign copromoter, she or he must file a surety bond with the commission in such reasonable amount, but not less than \$3,000, as the commission determines.

(d) The surety bond shall be conditioned upon the faithful performance by the promoter or foreign copromoter of her or his obligations under this chapter and upon the fulfillment of her or his contracts with any other licensees under this chapter. However, the aggregate annual liability of the surety for all obligations and fees shall not exceed the amount of the bond.

Section 764. Section 548.022, Florida Statutes, is amended to read:

548.022 Oral examinations.—The commission may require any applicant or any officer, director, employee, or stockholder of a corporate applicant, before taking action on her or his application, to appear before the commission for an oral examination, under oath, as to her or his qualifications.

Section 765. Section 548.042, Florida Statutes, is amended to read:

548.042 Participation under fictitious name.—A person may not participate under a fictitious or assumed name in any match involving an amateur unless she or he has registered the name with the commission.

Section 766. Subsections (1), (3), and (4) of section 548.045, Florida Statutes, are amended to read:

548.045 Medical advisory council; qualifications, compensation, powers and duties.—

(1) A medical advisory council, which shall consist of five members appointed by the Governor, is created. Each member must be licensed to practice medicine in this state and must, at the time of her or his appointment, have practiced medicine at least 5 years.

(3) The Governor shall designate one of the members of the council as its chair ~~chairman~~.

(4) Each member shall be paid per diem for each day that the member ~~he~~ performs her or his duties under this chapter and shall be reimbursed for her or his expenses as provided in s. 112.061.

Section 767. Subsection (2) of section 548.046, Florida Statutes, is amended to read:

548.046 Physician's attendance at match; examinations; cancellation of match.—

(2) In addition to any other required examination, each participant shall be examined by the attending physician within 12 hours before she or he enters the ring. If the physician determines that a participant is physically or mentally unfit to proceed, the physician shall notify any commissioner or the deputy in charge who shall immediately cancel the match. The examination shall conform to rules adopted by the commission based on the advice of the medical advisory council. The result of the examination shall be reported in a writing signed by the physician and filed with the commission within 72 hours after the match.

Section 768. Section 548.047, Florida Statutes, is amended to read:

548.047 Duty of licensee to disclose condition of participant.—A licensee shall disclose all information in her or his possession concerning any mental or physical disability, injury, illness, or incapacity of a participant in a

match, immediately after learning thereof, to the commission, the deputy in charge, the attending physician, or the referee.

Section 769. Subsection (2) of section 548.05, Florida Statutes, is amended to read:

548.05 Control of contracts.—

(2) Each contract between a manager and a professional shall contain provisions governing its duration, division of the professional's purses, and any minimum sum guaranteed annually to the professional by the manager. Each contract shall provide that it is automatically terminated if the license of either party is revoked by the commission or if the manager fails to renew her or his license within 30 days after its expiration date. If the license of either party is suspended, the contract is not binding upon the other party during the period of suspension.

Section 770. Section 548.052, Florida Statutes, is amended to read:

548.052 Payment of advances by promoter or foreign copromoter regulated.—A promoter or foreign copromoter may not pay, lend, or give a contestant an advance against her or his purse before a contest, except with the prior written permission of a commissioner; and, if permitted, such advance may be made only for expenses for transportation and maintenance in preparation for a contest.

Section 771. Section 548.053, Florida Statutes, is amended to read:

548.053 Distribution of purses to participants; statements.—

(1) Unless otherwise directed by a representative of the commission, all purses shall be distributed by the promoter no later than 24 hours after the match. A written statement showing the distribution of the purse, including each item of receipt and each expenditure or deduction, shall be furnished to the participant and her or his manager, together with the participant's share of the purse. The promoter shall file a copy of the statement, certified by her or him to be correct, with receipted vouchers for all expenditures and deductions, with the commission no later than 72 hours after the match.

(2) Unless otherwise directed by a representative of the commission, a manager shall furnish to the participant she or he manages a statement of distribution, together with the participant's share of the purse, no later than 24 hours after the manager receives the purse and statement from the promoter. The manager shall file a copy of the statement, certified by her or him to be correct, with receipted vouchers for all expenditures and deductions, with the commission no later than 72 hours after the manager ~~he~~ receives the distribution from the promoter.

Section 772. Subsection (1) of section 548.054, Florida Statutes, is amended to read:

548.054 Withholding of purses; hearing; disposition of withheld purse forfeiture.—

(1) A member of the commission, the deputy in charge, or the referee may order a promoter to withhold any purse or other funds payable to a participant, or to withhold the share of any manager, if it appears that:

(a) The participant is not competing honestly, or is intentionally not competing to the best of her or his ability and skill, in a match represented to be a contest; or

(b) The participant, her or his manager, or any of the participant's his seconds has violated this chapter.

Section 773. Subsection (2) of section 548.056, Florida Statutes, is amended to read:

548.056 Prohibited financial interests in participant; penalties.—

(2)(a) A manager, trainer, or second of any participant shall not have any direct or indirect financial or pecuniary interest in the opponent in any contest in which her or his own participant participates.

(b) A participant shall not have any direct or indirect financial or pecuniary interest in her or his opponent in any contest.

Section 774. Subsection (4) of section 548.057, Florida Statutes, is amended to read:

548.057 Attendance of referee and judges at match; scoring; seconds.—

(4) Before the start of any boxing match, the referee shall obtain the name of each boxer's chief second. The chief second shall be responsible for the conduct of her or his assistants during the match.

Section 775. Subsections (1) and (2) of section 548.058, Florida Statutes, are amended to read:

548.058 Sham or collusive contest prohibited.—

(1) No person shall knowingly conduct, participate in, or be connected with a match which is represented to be a contest if one or both of the participants does not use her or his best efforts and skill or does not strive earnestly to win; if the result thereof has been prearranged; or if either participant does not use, or is prevented from using, her or his best efforts and skill as a result of coercion, bribery, duress, threats, reward or promise thereof, physical incapacity or disability, suggestion or agreement, or any other improper or unlawful means.

(2) If a licensee has knowledge of an act prohibited by subsection (1), the licensee ~~he~~ shall immediately report such knowledge to the commission. The report shall be in writing or, if oral, shall be immediately reduced to writing and shall contain all of licensee's reasons for the conclusions set forth in her or his report.

Section 776. Section 548.07, Florida Statutes, is amended to read:

548.07 Suspension of license or permit by commissioner; hearing.—Notwithstanding any provision of chapter 120, any member of the commission may, upon her or his own motion or upon the verified written complaint of any person charging a licensee or permittee with violating this chapter, suspend any license or permit until final determination by the commission if such action is necessary to protect the public welfare and the best interests of the sport. The commission shall hold a hearing within 10 days after the date on which the license or permit is suspended.

Section 777. Subsections (6) and (9) of section 548.071, Florida Statutes, are amended to read:

548.071 Suspension or revocation of license or permit by commission.—The commission may suspend or revoke a license or permit if the commission finds that the licensee or permittee:

(6) Has failed to account for or pay over moneys belonging to others which have come into her or his possession in connection with a match.

(9) Has loaned her or his license or permit to another person or has borrowed or used the license or permit of another.

Section 778. Section 549.02, Florida Statutes, is amended to read:

549.02 Duties of sheriffs.—Every sheriff who shall receive the notice provided for in s. 549.01, or who shall have other notice or knowledge of the proposed occurrence of any race meet within her or his county, shall forthwith take such measures as shall be reasonably necessary for the safeguarding of the public and the protection of persons from injury while such race shall be in progress. Every sheriff may appoint a sufficient number of deputies to thoroughly police the course over which such race is to take place, and may designate and maintain the boundaries prescribed for such course by stakes, ropes or otherwise, wherever it may seem necessary.

Section 779. Section 549.03, Florida Statutes, is amended to read:

549.03 Sheriff to exclude from course vehicles and persons.—Every sheriff and every deputy appointed by her or him shall exclude from the course over which any race shall be about to occur, and at least 30 minutes prior to the starting thereof, all animals, vehicles, and persons, except those officiating or participating in such race, and their assistants, and shall keep such course free from the intrusion of any animal, vehicle, or person, except as above-provided, for a period beginning at least 30 minutes prior to the starting of such race and extending during the whole time such race shall be in progress.

Section 780. Section 549.06, Florida Statutes, is amended to read:

549.06 Failure of person to remove from automobile racecourse; penalty.—Any person, except those officiating or participating in such race, and their assistants, who, upon being requested so to do by the sheriff or deputy sheriff, shall fail or refuse to move beyond the boundaries of the course over which any automobile race is about to occur, or who shall fail or refuse to

remove from within such boundaries any animal or vehicle owned or controlled by her or him, or who shall knowingly enter within such boundaries after being warned therefrom by such sheriff or deputy sheriff, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083, and shall be subject to immediate arrest and removal by such sheriff or deputy sheriff.

Section 781. Subsection (2) of section 549.09, Florida Statutes, is amended to read:

549.09 Motorsport nonspectator liability release.—

(2) Any person who operates a closed-course motorsport facility may require, as a condition of admission to any nonspectator part of such facility, the signing of a liability release form. The persons or entities owning, leasing, or operating the facility or sponsoring or sanctioning the motorsport event shall not be liable to a nonspectator or her or his heirs, representative, or assigns for negligence which proximately causes injury or property damage to the nonspectator within a nonspectator area during the period of time covered by the release.

Section 782. Section 550.0235, Florida Statutes, is amended to read:

550.0235 Limitation of civil liability.—No permittee conducting a racing meet pursuant to the provisions of this chapter; no division director or employee of the division; and no steward, judge, or other person appointed to act pursuant to this chapter shall be held liable to any person, partnership, association, corporation, or other business entity for any cause whatsoever arising out of, or from, the performance by such permittee, director, employee, steward, judge, or other person of her or his duties and the exercise of her or his discretion with respect to the implementation and enforcement of the statutes and rules governing the conduct of pari-mutuel wagering, so long as she or he acted in good faith. This section shall not limit liability in any situation in which the negligent maintenance of the premises or the negligent conduct of a race contributed to an accident; nor shall it limit any contractual liability.

Section 783. Subsection (1) of section 550.0425, Florida Statutes, is amended to read:

550.0425 Minors attendance at pari-mutuel performances; restrictions.—

(1) A minor, when accompanied by one or both parents or by her or his legal guardian, may attend pari-mutuel performances, under the conditions and at the times specified by each permitholder conducting the pari-mutuel performance.

Section 784. Subsection (1) and paragraph (c) of subsection (4) of section 550.105, Florida Statutes, are amended to read:

550.105 Occupational licenses of racetrack employees; fees; denial, suspension, and revocation of license; penalties and fines.—

(1) Each person connected with a racetrack or jai alai fronton shall purchase from the division an annual occupational license, which license is valid from May 1 until June 30 of the following year. All moneys collected pursuant to this section each fiscal year shall be deposited into the Pari-mutuel Wagering Trust Fund. If the division determines that it is in the best interest of the division and persons connected with racetracks, the division may issue a license valid for one season at one racetrack but may not make that determination apply to any person who objects to such determination. In any event, the season license fee must be equal to the annual occupational license fee. Any person may, at her or his option and pursuant to the rules adopted by the division, purchase an occupational license valid for a period of 3 years if the purchaser of the license pays the full occupational license fee for each of the years for which the license is purchased at the time the 3-year license is requested. The occupational license shall be valid during its specified term at any pari-mutuel facility.

(4)

(c) The division may deny, declare ineligible, or revoke any occupational license if the applicant for such license has been convicted of a felony or misdemeanor in this state, in any other state, or under the laws of the United States, if such felony or misdemeanor is related to gambling or bookmaking, as contemplated in s. 849.25, or involves cruelty to animals. If the applicant establishes that she or he is of good moral character, that she or he has been rehabilitated, and that the crime she or he was convicted of is not related to pari-mutuel wagering and is not a capital offense, the restrictions excluding offenders may be waived by the director of the division.

Section 785. Paragraph (a) of subsection (3) of section 550.125, Florida Statutes, is amended to read:

550.125 Uniform reporting system; bond requirement.—

(3)(a) Each permitholder to which a license is granted under this chapter, at its own cost and expense, must, before the license is delivered, give a bond in the penal sum of \$50,000 payable to the Governor of the state and her or his successors in office, with a surety or sureties to be approved by the division and the Treasurer, conditioned to faithfully make the payments to the Treasurer in her or his capacity as treasurer of the division; to keep its books and records and make reports as provided; and to conduct its racing in conformity with this chapter. When the greatest amount of tax owed during any month in the prior state fiscal year, in which a full schedule of live racing was conducted, is less than \$50,000, the division may assess a bond in a sum less than \$50,000. The division may review the bond for adequacy and require adjustments each fiscal year. The division has the authority to adopt rules to implement this paragraph and establish guidelines for such bonds.

Section 786. Subsection (6) of section 550.155, Florida Statutes, is amended to read:

550.155 Pari-mutuel pool within track enclosure; takeouts; breaks; penalty for purchasing part of a pari-mutuel pool for or through another in specified circumstances.—

(6) A person or corporation may not directly or indirectly purchase pari-mutuel tickets or participate in the purchase of any part of a pari-mutuel pool for another for hire or for any gratuity. A person may not purchase any part of a pari-mutuel pool through another wherein she or he gives or pays directly or indirectly such other person anything of value. Any person who violates this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 787. Section 550.175, Florida Statutes, is amended to read:

550.175 Petition for election to revoke permit.—Upon petition of 20 percent of the qualified electors of any county wherein any racing has been licensed and conducted under this chapter, the county commissioners of such county shall provide for the submission to the electors of such county at the then next succeeding general election the question of whether any permit or permits theretofore granted shall be continued or revoked, and if a majority of the electors voting on such question in such election vote to cancel or recall the permit theretofore given, the division may not thereafter grant any license on the permit so recalled. Every signature upon every recall petition must be signed in the presence of the clerk of the board of county commissioners at the office of the clerk of the circuit court of the county, and the petitioner must present at the time of such signing her or his registration receipt showing the petitioner's his qualification as an elector of the county at the time of the signing of the petition. Not more than one permit may be included in any one petition; and, in all elections in which the recall of more than one permit is voted on, the voters shall be given an opportunity to vote for or against the recall of each permit separately. Nothing in this chapter shall be construed to prevent the holding of later referendum or recall elections.

Section 788. Subsection (3) of section 550.1815, Florida Statutes, is amended to read:

550.1815 Certain persons prohibited from holding racing or jai alai permits; suspension and revocation.—

(3) After notice and hearing, the division shall refuse to issue or renew or shall suspend, as appropriate, any permit found in violation of subsection (1). The order shall become effective 120 days after service of the order upon the permitholder and shall be amended to constitute a final order of revocation unless the permitholder has, within that period of time, either caused the divestiture, or agreed with the convicted person upon a complete immediate divestiture, of her or his holding, or has petitioned the circuit court as provided in subsection (4) or, in the case of corporate officers or directors of the holder or employees of the holder, has terminated the relationship between the permitholder and those persons mentioned. The division may, by order, extend the 120-day period for divestiture, upon good cause shown, to avoid interruption of any jai alai or race meeting or to otherwise effectuate

this section. If no action has been taken by the permitholder within the 120-day period following the issuance of the order of suspension, the division shall, without further notice or hearing, enter a final order of revocation of the permit. When any permitholder or sole proprietor of a permitholder is convicted of an offense specified in paragraph (1)(b), the department may approve a transfer of the permit to a qualified applicant, upon a finding that revocation of the permit would impair the state's revenue from the operation of the permit or otherwise be detrimental to the interests of the state in the regulation of the industry of pari-mutuel wagering. In such approval, no public referendum is required, notwithstanding any other provision of law. A petition for transfer after conviction must be filed with the department within 30 days after service upon the permitholder of the final order of revocation. The timely filing of such a petition automatically stays any revocation order until further order of the department.

Section 789. Subsection (1) of section 550.334, Florida Statutes, is amended to read:

550.334 Quarter horse racing; substitutions.—

(1) Subject to all the applicable provisions of this chapter, any person who possesses the qualifications prescribed in this chapter may apply to the division for a permit to conduct quarter horse race meetings and racing under this chapter. The applicant must demonstrate that the location or locations where the permit will be used are available for such use and that she or he has the financial ability to satisfy the reasonably anticipated operational expenses of the first racing year following final issuance of the permit. If the racing facility is already built, the application must contain a statement, with reasonable supporting evidence, that the permit will be used for quarter horse racing within 1 year after the date on which it is granted; if the facility is not already built, the application must contain a statement, with reasonable supporting evidence, that substantial construction will be started within 1 year after the issuance of the permit. After receipt of an application, the division shall convene to consider and act upon permits applied for. The division shall disapprove an application if it fails to meet the requirements of this chapter. Upon each application filed and approved, a permit shall be issued setting forth the name of the applicant and a statement showing qualifications of the applicant to conduct racing under this chapter. If a favorable referendum on a pari-mutuel facility has not been held previously within the county, then, before a quarter horse permit may be issued by the division, a referendum ratified by a majority of the electors in the county is required on the question of allowing quarter horse races within that county; but if there is an extraordinary vote of the board of county commissioners of that county to allow quarter horse racing, the requirement for a referendum does not apply.

Section 790. Section 550.3605, Florida Statutes, is amended to read:

550.3605 Use of electronic transmitting equipment; permit by division required.—Any person who has in her or his possession or control on the premises of any licensed horse or dog racetrack or jai alai fronton any electronic transmitting equipment or device that is capable of transmitting

or communicating any information whatsoever to another person, without the written permission of the division, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. This section does not apply to the possession or control of any telephone, telegraph, radio, or television facilities installed by any such licensee with the approval of the division.

Section 791. Subsection (4) of section 550.3615, Florida Statutes, is amended to read:

550.3615 Bookmaking on the grounds of a permitholder; penalties; reinstatement; duties of track employees; penalty; exceptions.—

(4) If the activities of a person show that this law is being violated, and such activities are either witnessed or are common knowledge by any track or fronton employee, it is the duty of that employee to bring the matter to the immediate attention of the permitholder, manager, or her or his designee, who shall notify a law enforcement agency having jurisdiction. Willful failure on the part of any track or fronton employee to comply with the provisions of this subsection is a ground for the division to suspend or revoke that employee's license for track or fronton employment.

Section 792. Subsections (1) and (2) of section 552.093, Florida Statutes, are amended to read:

552.093 Competency examinations required; exceptions.—

(1) No license or permit shall be issued by the division until the applicant for such license or permit has satisfactorily passed an examination proving to the satisfaction of the division that the applicant ~~he~~ is thoroughly competent and familiar with explosives and the operation to be performed.

(2) Any licensee or permittee who possesses, on October 1, 1977, a valid license or permit for the period 1976-1977 shall, upon proper application, be issued a license or permit without being required to submit to an examination of competency. Any licensee or permittee who allows his or her license to lapse or whose license or permit is suspended or revoked shall be required to submit to and satisfactorily pass an examination prior to issuance of a license or permit.

Section 793. Subsection (3) and paragraphs (b) and (c) of subsection (5) of section 552.094, Florida Statutes, are amended to read:

552.094 Issuance of licenses, permits; prohibitions.—

(3) A blaster's permit shall be valid solely for use by the holder thereof in the course of her or his employment by the licensed user named therein.

(5) No license or permit shall be issued, renewed, or be allowed to remain in effect for any natural person:

(b) Who has been convicted of a felony and has not been pardoned or had her or his civil rights restored.

(c) Who has been adjudicated mentally incompetent and has not had her or his civil rights restored.

Section 794. Section 552.101, Florida Statutes, is amended to read:

552.101 Possession without license prohibited; exceptions.—It is unlawful for any person to possess an explosive unless he or she is the holder of a current, valid license or permit, as above provided, and possesses such explosive for the purpose covered by the license or permit held he holds. However, there is excepted from this provision common, contract, and private carriers, as described in s. 552.12, possessed of an explosive in connection with transportation of the same in the ordinary course of their business.

Section 795. Subsection (1) of section 552.113, Florida Statutes, is amended to read:

552.113 Reports of thefts, illegal use, or illegal possession.—

(1) Any sheriff, police department, or peace officer of this state shall give immediate notice to the division of any theft, illegal use, or illegal possession of explosives within the purview of this chapter, coming to his or her attention, and shall forward a copy of his or her final written report to the division.

Section 796. Section 552.114, Florida Statutes, is amended to read:

552.114 Sale, labeling, and disposition of explosives; unlawful possession.—No person shall sell, accept, or deliver any explosives unless each carton and each individual piece of such explosive is plainly labeled, stamped, or marked with the manufacturer's mark. It shall only be necessary for such identification marks to be on the containers used for packaging such explosives for explosive materials of such small size as not to be suitable for marking on the individual item. It is unlawful for any person to use or possess ~~have in his possession~~ any explosives not marked as required in this section. All unmarked explosives found in the possession of any person shall be confiscated and disposed of in accordance with the provisions of this chapter.

Section 797. Section 552.23, Florida Statutes, is amended to read:

552.23 Injunction.—In addition to the penalties and other enforcement provisions of this chapter, in the event any person engaged in any of the activities covered by this chapter shall violate any provision of this chapter or any rule or regulation adopted or promulgated in pursuance thereto, the division is authorized to resort to proceedings for injunction in the circuit court of the county where such person shall reside or have her or his or its principal place of business, and therein apply for such temporary and permanent orders as the division may deem necessary to restrain such person from engaging in any such activities, until such person shall have complied with the provisions of this chapter and such rules and regulations.

Section 798. Subsection (1) of section 553.03, Florida Statutes, is amended to read:

553.03 Definitions.—For the purpose of this part, the following terms, when used in this part or the rules and regulations, or orders made pursuant thereto, shall be construed, respectively to mean:

(1) A “plumbing contractor” is any person, except an employee of a licensed, bonded plumbing contractor, who is engaged in or working at the business of plumbing in the state who has furnished the necessary bond that he or she will do all plumbing in this state in compliance with the minimum requirements of the State Plumbing Code and who obtains a state and county occupational license and any other license, when required, to engage in or work at the business of plumbing.

Section 799. Subsection (1) and paragraphs (a) and (b) of subsection (3) of section 553.04, Florida Statutes, are amended to read:

553.04 Bond of plumbing contractor; requisites; form.—

(1) Any person, except an employee of a licensed, bonded plumbing contractor, who desires to engage in or work at the business of plumbing in counties in the state that have, through their boards of county commissioners, elected to place said counties under the operation of this part, shall, before engaging or working at the business of plumbing in said counties, give bond in the sum of \$5,000, payable to the Governor of the state and the Governor’s his successors in office with two or more good and sufficient sureties to be approved by the board of county commissioners of the county in which the said person intends to engage or work as a plumbing contractor and to be filed with said county code enforcement in which the said person intends to so engage or work, which said bond shall be conditioned upon the said person complying with the minimum requirements of the State Plumbing Code in regards to all plumbing done by said person in this state. Upon said plumbing contractor obtaining said bond and filing said bond with said county code enforcement, the said plumbing contractor is thereby entitled to have issued to him or her, by the said county code enforcement, a certificate to the effect that said bond has been filed by said plumbing contractor in said county. Said certificate shall be accepted, in lieu of bond, by other counties in which said plumbing contractor may desire to work.

(3) The form of said bond shall be substantially as follows:

(a) Know all persons ~~men~~ by these presents that we, ..., (hereinafter called the principal) and ..., a corporation duly qualified and authorized under the laws of the State of Florida to act as surety on bonds (hereinafter called the Surety) are held and firmly bound unto ..., Governor of the State of Florida, and the Governor’s his successors in office in the penal sum of \$5,000, lawful money of the United States of America, the true payment whereof well and truly to be made we do bind ourselves, our respective heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by this bond.

(b) The condition of this bond is that if the above bonded principal, the said ..., shall protect the State of Florida against all loss or damage occasioned by the negligence of the said principal herein in failing to properly execute and protect all plumbing done by said principal or the employees of

said principal or under the direction and supervision of said principal and from all loss or damage occasioned by or arising in any manner from any such work done by said principal or the employees of said principal or under the direction or supervision of said principal which is not caused by the negligence of the State of Florida or its agents, or employees, or by the negligence of the agents or employees of the county in which such plumbing is performed or by the negligence of the employees of the city in which such plumbing is performed, and further will keep and observe all laws of the State of Florida relating in any way to plumbing and all local ordinances where such plumbing is done, which relate in any way to plumbing and shall do all the plumbing in compliance with the minimum requirements of the State Plumbing Code and shall further without additional cost to the person for whom the plumbing is done, remedy any defects in said work due to faulty material furnished or used by said principal and shall further reconstruct and repair any such defective plumbing work or material to the satisfaction of the county plumbing inspector of the county where such plumbing is done, or to the satisfaction of the municipal plumbing inspector or district plumbing inspector, where such plumbing is done in municipalities or legislatively created governing, service, or sanitary districts which have been exempted from county plumbing inspection by the board of county commissioners, at any time within 1 year after the construction, alteration, or installation thereof by said principal, or under his or her direction or supervision and within 48 hours after notice from the county plumbing inspector or the municipal plumbing inspector or the district plumbing inspector to reconstruct or repair same, then this obligation shall become null and void; else to remain in full force and effect.

Section 800. Subsection (1) of section 553.05, Florida Statutes, is amended to read:

553.05 County plumbing inspectors; employment, qualifications, duties; exemption of certain municipalities and districts.—

(1) Each county in this state, acting through its board of county commissioners may, at the discretion of the board, employ one or more plumbing inspectors to inspect all plumbing installed within such county, except when exempted by this subsection. Each said plumbing inspector must be a practical plumber of not less than 10 years' experience and shall not be connected with the plumbing business in any manner after such employment. The plumbing inspector shall be under the direct supervision of the board of county commissioners or its designee, and the inspector's ~~his~~ salary shall be determined by the board. The plumbing inspector shall be qualified to perform duties in matters pertaining to the gathering of evidence in any violation of the provisions of this part, swearing out warrants, appearing before courts in prosecution, and any other matters pertaining to the enforcement of the provisions of this part, but the inspector shall not be entitled to receive any witness or other fees out of the fine and forfeiture fund of any county on account of ~~his~~ testifying as a witness or any other services rendered by ~~him~~ under this part. It is the duty of the plumbing inspector to inspect plumbing in the ~~his~~ county with respect to mode of installation, materials used, workmanship employed, plumbing code specifications met, and testing used, all to comply with and conform with the minimum requirements of the

State Plumbing Code and the laws of the state in regard to plumbing. Each county, acting through its board of county commissioners, may exempt from county plumbing inspection municipalities and legislatively created governing, service, or sanitary districts which:

(a) Have in existence or which enact plumbing code ordinances meeting or surpassing the minimum requirements for plumbing as set out in the State Plumbing Code;

(b) Hire only plumbing inspectors who meet the minimum requirements and qualifications of this subsection; and

(c) Conduct inspections complying with the minimum state requirements.

Section 801. Subsection (4) of section 553.11, Florida Statutes, is amended to read:

553.11 Construction, limitation of this part.—

(4) Nothing herein contained shall prohibit any bona fide owner from personally installing plumbing in her or his own residence.

Section 802. Section 553.381, Florida Statutes, is amended to read:

553.381 Manufacturer certification; product liability insurance as prerequisite.—As a prerequisite to obtaining approval to produce manufactured buildings for sale in the state, the manufacturer must submit evidence that she or he has product liability insurance for the safety and welfare of the public in amounts determined by rule of the department.

Section 803. Subsections (2) and (4) of section 553.74, Florida Statutes, are amended to read:

553.74 State Board of Building Codes and Standards.—

(2) The first five board members appointed after October 1, 1991, shall serve for terms of 3 years each. Thereafter, all appointments shall be for terms of 4 years. A vacancy shall be filled for the remainder of the unexpired term. Neither the architect nor any of the above-named engineers shall be engaged in the manufacture, promotion, or sale of any building materials; and any member who shall, during his or her term, cease to meet the qualifications for original appointment, through ceasing to be a practicing member of the profession indicated or otherwise, shall thereby forfeit his membership on the board.

(4) Each appointed member is accountable to the Governor for the proper performance of the duties of the his office. The Governor shall cause to be investigated any complaint or unfavorable report received concerning an action of the board or any member and shall take appropriate action thereon. The Governor may remove from office any appointed member for malfeasance, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, or pleading guilty or nolo contendere to, or being found guilty of, a felony.

Section 804. Subsections (1) and (2) of section 553.75, Florida Statutes, are amended to read:

553.75 Organization of board; rules and regulations; meetings; staff; fiscal affairs.—

(1) Within 30 days after its appointment, the board shall meet on call of the secretary. The board shall at this time, and thereafter annually, elect from its appointive members a chair ~~chairman~~ and such officers as it may choose.

(2) The board shall meet at the call of its chair ~~chairman~~, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules. The members shall be notified in writing of the time and place of a regular or special meeting at least 7 days in advance of the meeting. A majority of members of the board shall constitute a quorum.

Section 805. Paragraph (a) of subsection (3) of section 553.80, Florida Statutes, is amended to read:

553.80 Enforcement.—

(3) Each enforcement district shall be governed by a board, the composition of which shall be determined by the affected localities. At its own option each enforcement district or local enforcement agency may promulgate rules granting to the owner of a single-family residence one or more exemptions from the State Minimum Building Codes relating to:

(a) Addition, alteration, or repairs performed by the property owner upon his or her own property, provided any addition or alteration shall not exceed 1,000 square feet or the square footage of the primary structure, whichever is less.

Each code exemption, as defined in paragraphs (a), (b), and (c), shall be certified to the local board 10 days prior to implementation and shall only be effective in the territorial jurisdiction of the enforcement district or local enforcement agency implementing it.

Section 806. Paragraph (e) of subsection (2) of section 553.851, Florida Statutes, is amended to read:

553.851 Protection of underground gas pipelines.—

(2) NOTICE AND MARKING REQUIREMENTS FOR EXCAVATION.—

(e) No political subdivision of this state shall issue a permit for excavation until the applicant for such permit certifies that he or she has complied with the provisions of paragraphs (a) and (c).

Section 807. Section 553.907, Florida Statutes, is amended to read:

553.907 Compliance.—Owners of all buildings required to comply with this part, or their agents, must certify compliance to the designated local

enforcement agency prior to receiving the permit to begin construction or renovation. If, during the building construction or renovation, alterations are made in the design, materials, or equipment which would diminish the energy performance of the building, an amended copy of the compliance certification must be submitted to the local enforcement agency on or before the date of final inspection by the building owner or his or her agent and must be placed on the building permit.

Section 808. Subsection (2) of section 553.993, Florida Statutes, is amended to read:

553.993 Definitions.—For purposes of this part:

(2) “Builder” means the primary contractor who possesses the requisite skill, knowledge, and experience, and has the responsibility, to supervise, direct, manage, and control the contracting activities of the business organization with which she or he is connected and who has the responsibility to supervise, direct, manage, and control the construction work on a job for which she or he has obtained the building permit. Construction work includes, but is not limited to, foundation, framing, wiring, plumbing, and finishing work.

Section 809. Paragraph (d) of subsection (2) of section 554.105, Florida Statutes, is amended to read:

554.105 Chief inspector.—

(2) The department, through the chief inspector, shall administer the state boiler inspection program, and shall:

(d) Expend funds necessary to meet the expenses authorized by ss. 554.1011-554.115, including the necessary travel expenses of the chief inspector and deputy inspectors, and the expenses incident to the maintenance of his or her office.

Section 810. Paragraphs (a) and (e) of subsection (2) of section 556.106, Florida Statutes, are amended to read:

556.106 Liability of the member operator, excavator, and system.—

(2)(a) In the event any person violates s. 556.105(1) or (6), and subsequently, whether by himself or herself or through the person's ~~his~~ employees, contractors, subcontractors, or agents, performs an excavation or demolition which damages an underground facility of a member operator, it shall be rebuttably presumed that such person was negligent. Such person, if found liable, shall be liable for the total sum of the losses to all member operators involved as those costs are normally computed. Any damage for loss of revenue and loss of use shall not exceed \$500,000 per affected underground facility, except that revenues lost by a governmental member operator, which revenues are used to support payments on principal and interest on bonds, shall not be limited. Any liability of the state and its agencies and its subdivisions which arises out of this chapter shall be subject to the provisions of s. 768.28.

(e) When an excavator knows or should know of the presence of an underground facility, he or she shall make reasonable efforts to contact the person who owns or operates that facility prior to commencing an excavation or demolition, regardless of whether that person is a member operator.

Section 811. Subsection (2) of section 559.21, Florida Statutes, is amended to read:

559.21 Regulation of sales.—

(2) Upon receipt of such application and payment of the fee prescribed in s. 559.23, the tax collector shall examine the same, and may make such investigation as she or he may deem proper. The tax collector shall determine if the person or corporation that intends to conduct the sale owes any taxes with respect to the goods to be offered for sale. The tax collector may not issue a permit to such person or corporation until all delinquent taxes on such goods have been paid. If after such investigation she or he is satisfied as to the truth of the statements contained in such application, the tax collector may issue a license permitting the publication and conduct of such sale on the following terms:

(a) The permit shall authorize the sale described in the application for a period of not more than 60 consecutive days, counting Sundays and legal holidays following the issuance thereof.

(b) The permit shall authorize only the one type of sale described in the application at the location named therein.

(c) The permit shall authorize only the sale of goods described in the inventory attached to the application.

(d) Upon being issued a permit hereunder for a going-out-of-business sale, the permittee shall surrender to the tax collector all other business licenses she or he may hold at that time applicable to the location and goods covered by the application for a permit under this part, which license or licenses shall be transmitted by the tax collector to the licensing authority for cancellation.

(e) Any permit herein provided for shall not be assignable or transferable.

Section 812. Section 559.23, Florida Statutes, is amended to read:

559.23 Fees.—Upon filing an application for a permit to advertise and conduct a sale, or special sale, the applicant shall pay to the tax collector a fee in the sum of \$50 which shall be deemed income of his or her office. If an application is disapproved, such payment shall be retained as and for the cost of investigating the statements contained in such application, and the applicant.

Section 813. Subsection (1) of section 559.27, Florida Statutes, is amended to read:

559.27 Tag required reflecting value of item offered for sale at auction.—

(1) At all auctions of goods at public outcry, the auctioneer or her or his agent shall place or cause to be placed upon each item to be offered at auction a tag showing the value attributed to the item at the time it is offered. Such tag shall remain affixed to the item and shall be delivered to the buyer along with the item at the time of sale.

Section 814. Subsection (3) of section 559.3904, Florida Statutes, is amended to read:

559.3904 Contracts of membership; requirements; notice; effect of non-compliance.—

(3) No contract shall be valid for a term longer than 24 months from the date upon which the contract is signed. However, a club may allow a member to convert his or her contract into a contract for a period longer than 24 months after the member has been a member of the club for a period of at least 6 months. The duration of the contract shall be clearly and conspicuously disclosed in the contract in boldfaced type of a minimum size of 14 points.

Section 815. Subsection (4) of section 559.544, Florida Statutes, is amended to read:

559.544 Registration required; exemptions.—

(4) The department shall not accept any registration for any commercial collection agency as validly made and filed with the department under this section unless the registration information furnished to the department by the registrant is complete pursuant to s. 559.545 and facially demonstrates that such registrant is qualified to engage in business as a commercial collection agency, including specifically that neither the registrant nor any principal of the registrant has engaged in any unlawful collection practices, dishonest dealings, acts of moral turpitude, or other criminal acts that reflect an inability to engage in the commercial collection agency business. The department shall inform any person whose registration is rejected by the department of the fact of and basis for such rejection. A prospective registrant shall be entitled to be registered when her or his or its registration information is complete on its face, the applicable registration fee has been paid, and the required evidence of current bond is furnished to the department.

Section 816. Subsection (3) of section 559.545, Florida Statutes, is amended to read:

559.545 Registration of commercial collection agencies; procedure.—Any person who wishes to register as a commercial collection agency in compliance with this part shall do so on forms furnished by the department. Any renewal of registration shall be made between October 1 and December 31 of each year. In registering or renewing a registration as required by this part, each commercial collection agency shall furnish to the department a registration fee, information, and surety bond, as follows:

(3) The registrant shall furnish to the department evidence, as provided in s. 559.546, of the registrant having a current surety bond in the amount of \$50,000, valid for the year of registration, paid for and issued for the use and benefit of any credit grantor who suffers or sustains any loss or damage by reason of any violation of the provisions of this part by the registrant, or by any agent or employee of the registrant acting within the scope of her or his employment, and issued to ensure conformance with the provisions of this part.

Section 817. Subsection (6) of section 559.55, Florida Statutes, is amended to read:

559.55 Definitions.—The following terms shall, unless the context otherwise indicates, have the following meanings for the purpose of this part:

(6) “Debt collector” means any person who uses any instrumentality of commerce within this state, whether initiated from within or outside this state, in any business the principal purpose of which is the collection of debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. The term “debt collector” includes any creditor who, in the process of collecting her or his own debts, uses any name other than her or his own which would indicate that a third person is collecting or attempting to collect such debts. The term does not include:

(a) Any officer or employee of a creditor while, in the name of the creditor, collecting debts for such creditor;

(b) Any person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector for persons to whom it is so related or affiliated and if the principal business of such persons is not the collection of debts;

(c) Any officer or employee of any federal, state, or local governmental body to the extent that collecting or attempting to collect any debt is in the performance of her or his official duties;

(d) Any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt;

(e) Any not-for-profit organization which, at the request of consumers, performs bona fide consumer credit counseling and assists consumers in the liquidation of their debts by receiving payments from such consumers and distributing such amounts to creditors; or

(f) Any person collecting or attempting to collect any debt owed or due or asserted to be owed or due another to the extent that such activity is incidental to a bona fide fiduciary obligation or a bona fide escrow arrangement; concerns a debt which was originated by such person; concerns a debt which was not in default at the time it was obtained by such person; or concerns a debt obtained by such person as a secured party in a commercial credit transaction involving the creditor.

Section 818. Subsection (3) of section 559.565, Florida Statutes, is amended to read:

559.565 Enforcement action against out-of-state consumer debt collector.—The remedies of this section are cumulative to other sanctions and enforcement provisions of this part for any violation by an out-of-state consumer debt collector, as defined in s. 559.55(8).

(3) In order to effectuate the provisions of this section and enforce the requirements of this part as it relates to out-of-state consumer debt collectors, the Attorney General is expressly authorized to initiate such action on behalf of the state as he or she deems appropriate in any federal district court of competent jurisdiction.

Section 819. Subsections (3), (4), (5), (7), (8), (15), and (16) of section 559.72, Florida Statutes, are amended to read:

559.72 Prohibited practices generally.—In collecting consumer debts, no person shall:

(3) Tell a debtor who disputes a consumer debt that she or he or any person employing her or him will disclose to another, orally or in writing, directly or indirectly, information affecting the debtor's reputation for credit worthiness without also informing the debtor that the existence of the dispute will also be disclosed as required by subsection (6);

(4) Communicate or threaten to communicate with a debtor's employer prior to obtaining final judgment against the debtor, unless the debtor gives her or his permission in writing to contact her or his employer or acknowledges in writing the existence of the debt after the debt has been placed for collection, but this shall not prohibit a person from telling the debtor that her or his employer will be contacted if a final judgment is obtained;

(5) Disclose to a person other than the debtor or her or his family information affecting the debtor's reputation, whether or not for credit worthiness, with knowledge or reason to know that the other person does not have a legitimate business need for the information or that the information is false;

(7) Willfully communicate with the debtor or any member of her or his family with such frequency as can reasonably be expected to harass the debtor or her or his family, or willfully engage in other conduct which can reasonably be expected to abuse or harass the debtor or any member of her or his family;

(8) Use profane, obscene, vulgar, or willfully abusive language in communicating with the debtor or any member of her or his family;

(15) Refuse to provide adequate identification of herself or himself or her or his employer or other entity whom she or he represents when requested to do so by a debtor from whom she or he is collecting or attempting to collect a consumer debt;

(16) Mail any communication to a debtor in an envelope or postcard with words typed, written, or printed on the outside of the envelope or postcard calculated to embarrass the debtor. An example of this would be an envelope addressed to "Deadbeat, Jane Doe" or "Deadbeat, John Doe"; or

Section 820. Section 559.77, Florida Statutes, is amended to read:

559.77 Civil remedies.—A debtor may bring a civil action against a person violating the provisions of s. 559.72 in a court of competent jurisdiction of the county in which the alleged violator resides or has his or her principal place of business or in the county wherein the alleged violation occurred. Upon adverse adjudication, the defendant shall be liable for actual damages or \$500, whichever is greater, together with court costs and reasonable attorney's fees incurred by the plaintiff. The court may, in its discretion, award punitive damages and may provide such equitable relief as it deems necessary or proper, including enjoining the defendant from further violations of this part. If the court finds that the suit fails to raise a justiciable issue of law or fact, the plaintiff shall be liable for court costs and reasonable attorney's fees incurred by the defendant.

Section 821. Subsections (1) and (3) of section 559.805, Florida Statutes, are amended to read:

559.805 Filings with the department; disclosure of advertisement identification number.—

(1) Every seller of a business opportunity shall file with the department a copy of the disclosure statement required by s. 559.803 prior to placing an advertisement or making any other representation designed to offer to, sell to, or solicit an offer to buy a business opportunity from a prospective purchaser in this state and shall update this filing as any material change in the required information occurs, but not less frequently than annually. An advertisement is not placed in the state merely because the publisher circulates, or there is circulated on his or her behalf in the state, any bona fide newspaper or other publication of general, regular, and paid circulation which has had more than two-thirds of its circulation during the past 12 months outside the state or because a radio or television program originating outside the state is received in the state. If the seller is required by s. 559.807 to provide a bond or establish a trust account or guaranteed letter of credit, he or she shall contemporaneously file with the department a copy of the bond, a copy of the formal notification by the depository that the trust account is established, or a copy of the guaranteed letter of credit.

(3) The seller shall disclose, to each person with whom he or she places advertising, the advertisement identification number, which shall be recorded by the person receiving the advertising so that the advertising media may verify the authenticity of the registration.

Section 822. Subsection (1) of section 559.811, Florida Statutes, is amended to read:

559.811 Contracts to be in writing; form; provisions.—

(1) Every business opportunity contract shall be in writing, and a copy shall be given to the purchaser at least 72 hours prior to the time she or he signs the contract.

Section 823. Subsection (5) of section 559.813, Florida Statutes, is amended to read:

559.813 Remedies; enforcement.—

(5) The Department of Legal Affairs, the Department of Agriculture and Consumer Services, or the state attorney, if a violation of this part occurs in her or his judicial circuit, are the enforcing authorities for purposes of this part, and they may bring civil actions in circuit court for temporary or permanent injunctive relief and may seek other appropriate civil relief, including, but not limited to, a civil penalty not to exceed \$5,000 for each violation, restitution and damages for injured purchasers of business opportunities, and court costs and reasonable attorney's fees.

Section 824. Subsections (3) and (5) of section 559.905, Florida Statutes, are amended to read:

559.905 Written motor vehicle repair estimate and disclosure statement required.—

(3) The information required by paragraphs (1)(h) and (i) need not be provided if the customer waives in writing her or his right to receive a written estimate.

(5) If the customer leaves her or his motor vehicle at a motor vehicle repair shop during hours when the shop is not open or if the customer permits the shop or another person to deliver the motor vehicle to the shop, there shall be an implied partial waiver of the written estimate; however, upon completion of diagnostic work necessary to estimate the cost of repair, the shop shall notify the customer as required in s. 559.909(1).

Section 825. Subsection (2) of section 559.907, Florida Statutes, is amended to read:

559.907 Charges for motor vehicle repair estimate; requirement of waiver of rights prohibited.—

(2) It shall be unlawful for any motor vehicle repair shop to require that any person waive her or his rights provided in this part as a precondition to the repair of her or his vehicle by the shop.

Section 826. Subsections (2) and (5) of section 559.909, Florida Statutes, are amended to read:

559.909 Notification of charges in excess of repair estimate; unlawful charges; refusal to return vehicle prohibited; inspection of parts.—

(2) If a customer cancels the order for repair after being advised that a repair which she or he has authorized cannot be accomplished within the previously authorized estimate, the shop shall expeditiously reassemble the

motor vehicle in a condition reasonably similar to the condition in which it was received unless:

- (a) The customer waives reassembly, or
- (b) The reassembled vehicle would be unsafe.

After cancellation of the repair order, the shop may charge for the cost of teardown, the cost of parts and labor to replace items that were destroyed by teardown, and the cost to reassemble the component or the vehicle, provided the customer was notified of these possible costs in the estimate prior to commencement of the diagnostic work.

(5) Upon request made at the time the repair work is authorized by the customer, the customer is entitled to inspect parts removed from her or his vehicle or, if the shop has no warranty arrangement or exchange parts program with a manufacturer, supplier, or distributor, have them returned to her or him.

Section 827. Paragraph (a) of subsection (1) and subsection (2) of section 559.917, Florida Statutes, are amended to read:

559.917 Bond to release possessory lien claimed by motor vehicle repair shop.—

(1)(a) Any customer may obtain the release of her or his motor vehicle from any lien claimed under part II of chapter 713 by a motor vehicle repair shop for repair work performed under a written repair estimate by filing with the clerk of the court in the circuit in which the disputed transaction occurred a cash or surety bond, payable to the person claiming the lien and conditioned for the payment of any judgment which may be entered on the lien. The bond shall be in the amount stated on the invoice required by s. 559.911, plus accrued storage charges, if any, less any amount paid to the motor vehicle repair shop as indicated on the invoice. The customer shall not be required to institute judicial proceedings in order to post the bond in the registry of the court, nor shall the customer be required to use a particular form for posting the bond, unless the clerk shall provide such form to the customer for filing. Upon the posting of such bond, the clerk of the court shall automatically issue a certificate notifying the lienor of the posting of the bond and directing the lienor to release the customer's motor vehicle.

(2) The failure of a lienor to release or return to the customer the motor vehicle upon which any lien is claimed, upon receiving a copy of a certificate giving notice of the posting of the bond and directing release of the motor vehicle, shall subject the lienor to judicial proceedings which may be brought by the customer to compel compliance with the certificate. Whenever a customer brings an action to compel compliance with the certificate, the customer need only establish that:

(a) Bond in the amount of the invoice, plus accrued storage charges, if any, less any amount paid to the motor vehicle repair shop as indicated on the invoice, was posted;

(b) A certificate was issued pursuant to this section;

(c) The motor vehicle repair shop, or any employee or agent thereof who is authorized to release the motor vehicle, received a copy of a certificate issued pursuant to this section; and

(d) The motor vehicle repair shop or employee authorized to release the motor vehicle failed to release the motor vehicle.

The customer, upon a judgment in her or his favor in an action brought under this subsection, may be entitled to damages plus court costs and reasonable attorney's fees sustained by her or him by reason of such wrongful detention or retention. Upon a judgment in favor of the motor vehicle repair shop, the shop may be entitled to reasonable attorney's fees.

Section 828. Subsection (10) of section 559.920, Florida Statutes, is amended to read:

559.920 Unlawful acts and practices.—It shall be a violation of this act for any motor vehicle repair shop or employee thereof to:

(10) Substitute used, rebuilt, salvaged, or straightened parts for new replacement parts without notice to the motor vehicle owner and to her or his insurer if the cost of repair is to be paid pursuant to an insurance policy and the identity of the insurer or its claims adjuster is disclosed to the motor vehicle repair shop;

Section 829. Paragraph (a) of subsection (5) of section 559.921, Florida Statutes, is amended to read:

559.921 Remedies.—

(5)(a) The department or the state attorney, if a violation of this part occurs in his or her judicial circuit, shall be the enforcing authority for purposes of this part and may bring a civil action in circuit court for temporary or permanent injunctive relief and may seek other appropriate civil relief, including a civil penalty not to exceed \$1,000 for each violation, restitution and damages for injured customers, court costs, and reasonable attorney's fees.

Section 830. Paragraphs (a) and (b) of subsection (2) of section 559.9221, Florida Statutes, are amended to read:

559.9221 Motor Vehicle Repair Advisory Council.—The Motor Vehicle Repair Advisory Council is created to advise and assist the department in carrying out this part.

(2)(a) The council shall annually elect from its members a chair ~~chairman~~ and a vice chair ~~chairman~~.

(b) The council shall meet at the call of its chair ~~chairman~~, at the request of a majority of its membership, or at the request of the department.

Section 831. Subsection (3) of section 559.9233, Florida Statutes, is amended to read:

559.9233 Rental-purchase agreements.—

(3) The lessor must deliver to the lessee, or mail to ~~the lessee~~ him at her or his address shown on the rental-purchase agreement, a copy of the rental-purchase agreement signed by the lessor. Before the transaction is completed, a copy of the rental-purchase agreement, or a separate statement on which the disclosures required by this section are made and on which the lessee and lessor are identified, must be delivered to the lessee. Any acknowledgment by the lessee of delivery of a copy of the rental-purchase agreement, if contained in the rental-purchase agreement, must appear directly above or adjacent to the lessee's signature.

Section 832. Subsection (2) of section 559.9236, Florida Statutes, is amended to read:

559.9236 Receipts.—

(2) After payment of all sums necessary for the lessee to acquire ownership of the rental property, a lessor must deliver or mail to the lessee, at her or his last known address, one or more good and sufficient instruments acknowledging that the lessee has acquired ownership of the rental property.

Section 833. Paragraphs (d) and (e) of subsection (8) of section 559.928, Florida Statutes, are amended to read:

559.928 Registration.—

(8) The department may deny or refuse to renew the registration of any seller of travel based upon a determination that the seller of travel, or any of its directors, officers, owners, or general partners:

(d) Has pending against her or him any criminal, administrative, or enforcement proceedings in any jurisdiction, based upon conduct involving fraud, dishonest dealing, or any other act of moral turpitude; or

(e) Has had a judgment entered against her or him in any action brought by the department or the Department of Legal Affairs pursuant to ss. 501.201-501.213 or this part.

Section 834. Paragraph (g) of subsection (1) of section 559.932, Florida Statutes, is amended to read:

559.932 Vacation certificate disclosure.—

(1) It shall be unlawful for any seller of travel to fail to provide each person solicited with a contract which shall include the following:

(g) By means of a section entitled "terms and conditions":

1. All eligibility requirements for use of the vacation certificate, including, but not limited to, age, sex, marital status, group association, residency, or geographic limitations.

2. All eligibility requirements for use of any discount or complimentary coupon or ticket.
3. A statement as to whether transportation and meals are provided pursuant to use of the certificate.
4. Any room deposit requirement, including all conditions for its return or refund.
5. The manner in which reservation requests are to be made and the method by which they are to be confirmed.
6. Any identification, credential, or other means by which a purchaser must establish her or his entitlement to the rights, benefits, or privileges of the vacation certificate.
7. Any restriction or limitation upon transfer of the vacation certificate or any right, benefit, or privilege thereunder.
8. Any other term, limitation, condition, or requirement material to use of the vacation certificate or any right, benefit, or privilege thereunder.

Section 835. Subsection (4) of section 559.933, Florida Statutes, is amended to read:

559.933 Vacation certificate cancellation and refund provisions.—It shall be unlawful for any seller of travel or assignee:

(4) Where any purchaser has received confirmation of reservations in advance and is refused accommodations upon arrival, to fail to procure comparable alternate accommodations for the purchaser in the same city at no expense to the purchaser, or to fail to fully compensate the purchaser for the room rate incurred in securing comparable alternate accommodations himself or herself.

Section 836. Paragraph (a) of subsection (1) and subsection (6) of section 559.935, Florida Statutes, are amended to read:

559.935 Exemptions.—

(1) This part does not apply to:

(a) A bona fide employee of a seller of travel who is engaged solely in the business of her or his employer;

(6) The department shall request from the Airlines Reporting Corporation any information necessary to implement the provisions of subsection (2). Persons claiming an exemption under subsection (2) or subsection (3) must show a letter of exemption from the department before a local occupational license to engage in business as a seller of travel may be issued or reissued. If the department fails to issue a letter of exemption on a timely basis, the seller of travel shall submit to the department, through certified mail, an affidavit containing her or his name and address and an explanation of the exemption sought. Such affidavit may be used in lieu of a letter

of exemption for the purpose of obtaining an occupational license. In any civil or criminal proceeding, the burden of proving an exemption under this section shall be on the person claiming such exemption. A letter of exemption issued by the department shall not be used in, and shall have no bearing on, such proceedings.

Section 837. Paragraph (c) of subsection (3) of section 560.109, Florida Statutes, is amended to read:

560.109 Investigations, subpoenas, hearings, and witnesses.—

(3)

(c) At any hearing on any such petition, the person subpoenaed, or any person whose interests will be substantially affected by the investigation, examination, or subpoena, may appear and object to the subpoena and to the granting of the petition. The court may make any order that justice requires in order to protect a party or other person and her or his personal and property rights, including, but not limited to, protection from annoyance, embarrassment, oppression, or undue burden or expense.

Section 838. Paragraph (a) of subsection (2) of section 560.118, Florida Statutes, is amended to read:

560.118 Examinations, reports, and internal audits; penalty.—

(2)(a) The department may, by rule, require each money transmitter or authorized vendor to submit quarterly reports to the department. The department may require that each report contain a declaration by an officer, or any other responsible person authorized to make such declaration, that the report is true and correct to the best of her or his knowledge and belief. Such report must include such information as the department by rule requires for that type of money transmitter.

Section 839. Subsection (1) of section 561.051, Florida Statutes, is amended to read:

561.051 Bond of director and employees.—

(1) The director of the division shall furnish a surety bond by a surety company authorized to do business in this state in the sum of \$100,000, payable to the Governor and to be approved by the Comptroller, conditioned upon the faithful performance of his or her duties. He or she shall promptly report and remit to the Treasurer all taxes and fees collected by him or her hereunder and shall send a copy of the reports to the Comptroller.

Section 840. Section 561.111, Florida Statutes, is amended to read:

561.111 Payment of taxes by electronic funds transfer.—The Secretary of Business and Professional Regulation may require a person who manufactures or distributes alcoholic beverages within the state to remit by electronic funds transfer any tax imposed under chapter 563, chapter 564, or chapter 565 if the taxpayer is subject to tax and if the total of such taxes he or she paid in the prior year amounted to \$50,000 or more.

Section 841. Subsections (1) and (4) of section 561.17, Florida Statutes, are amended to read:

561.17 License and registration applications; approved person.—

(1) Any person, before engaging in the business of manufacturing, bottling, distributing, selling, or in any way dealing in alcoholic beverages, shall file, with the district supervisor of the district of the division in which the place of business for which a license is sought is located, a sworn application in duplicate on forms provided to the district supervisor by the division. Prior to any application being approved, the division may require the applicant to file a set of fingerprints on regular United States Department of Justice forms for herself or himself and for any person or persons interested directly or indirectly with the applicant in the business for which the license is being sought, when so required by the division. If the applicant or any person who is interested with the applicant either directly or indirectly in the business or who has a security interest in the license being sought or has a right to a percentage payment from the proceeds of the business, either by lease or otherwise, is not qualified, the application shall be denied by the division. However, any company regularly traded on a national securities exchange and not over the counter; any insurer, as defined in the Florida Insurance Code; or any bank or savings and loan association chartered by this state, another state, or the United States which has an interest, directly or indirectly, in an alcoholic beverage license shall not be required to obtain division approval of its officers, directors, or stockholders or any change of such positions or interests. A shopping center with five or more stores, one or more of which has an alcoholic beverage license and is required under a lease common to all shopping center tenants to pay no more than 10 percent of the gross proceeds of the business holding the license to the shopping center, shall not be considered as having an interest, directly or indirectly, in the license.

(4) Any person, before engaging in the business of exporting alcoholic beverages, must file with the district supervisor of the district of the division in which the exporter's business is located, a registration on forms provided to the district supervisor by the division. An exporter may not register unless ~~she or he~~ has complied with all appropriate federal regulations, including federal permitting regulations.

Section 842. Paragraph (e) of subsection (2) of section 561.20, Florida Statutes, is amended to read:

561.20 Limitation upon number of licenses issued.—

(2)

(e) The owner of a hotel, motel, or motor court may lease his or her restaurant operation to another corporation, individual, or business association that, upon meeting the requirements for a restaurant license set forth in this chapter, may operate independently of the hotel, motel, or motor court and be permitted to provide room service for alcoholic and intoxicating beverages within such hotel, motel, or motor court in which the restaurant is located.

Section 843. Paragraph (a) of subsection (2) of section 561.22, Florida Statutes, is amended to read:

561.22 Licensing manufacturers, distributors, and registered exporters as vendors prohibited.—

(2)(a) If any applicant for a vendor's license or renewal thereof is an individual, such individual is within the provisions of subsection (1) if he or she is interested or connected, directly or indirectly, with any corporation which is engaged, directly or indirectly, or through any subsidiary or affiliate corporation, including any stock ownership exceeding 0.5 percent owned individually, including a 0.5 percent interest in a blind or revocable trust, as set forth in subsection (3), in manufacturing, distributing, or exporting alcoholic beverages under a license or registration of this state or any state of the United States.

Section 844. Subsection (1) of section 561.27, Florida Statutes, is amended to read:

561.27 Renewal of license.—

(1) A licensee under the Beverage Law shall be entitled to a renewal of his or her annual license from year to year, as a matter of course, in accordance with a schedule of license renewals as established by the division and by paying the annual license tax and giving any bond required of such licensee under the Beverage Law.

Section 845. Paragraphs (a), (h), and (i) of subsection (1) and subsections (2) and (3) of section 561.29, Florida Statutes, are amended to read:

561.29 Revocation and suspension of license; power to subpoena.—

(1) The division is given full power and authority to revoke or suspend the license of any person holding a license under the Beverage Law, when it is determined or found by the division upon sufficient cause appearing of:

(a) Violation by the licensee or his or her or its agents, officers, servants, or employees, on the licensed premises, or elsewhere while in the scope of employment, of any of the laws of this state or of the United States, or violation of any municipal or county regulation in regard to the hours of sale, service, or consumption of alcoholic beverages or license requirements of special licenses issued under s. 561.20, or engaging in or permitting disorderly conduct on the licensed premises, or permitting another on the licensed premises to violate any of the laws of this state or of the United States. A conviction of the licensee or his or her or its agents, officers, servants, or employees in any criminal court of any violation as set forth in this paragraph shall not be considered in proceedings before the division for suspension or revocation of a license except as permitted by chapter 92 or the rules of evidence.

(h) Failure by the holder of any license under s. 561.20(1) to maintain the licensed premises in an active manner in which the licensed premises are open for the bona fide sale of authorized alcoholic beverages during regular

business hours of at least 6 hours a day for a period of 120 days or more during any 12-month period commencing 18 months after the acquisition of the license by the licensee, regardless of the date the license was originally issued. Every licensee must notify the division in writing of any period during which his or her license is inactive and place the physical license with the division to be held in an inactive status. The division may waive or extend the requirement of this section upon the finding of hardship, including the purchase of the license in order to transfer it to a newly constructed or remodeled location. However, during such closed period, the licensee shall make reasonable efforts toward restoring the license to active status. This paragraph shall apply to all annual license periods commencing on or after July 1, 1981, but shall not apply to licenses issued after September 30, 1988.

(i) Failure of any licensee issued a new or transfer license after September 30, 1988, under s. 561.20(1) to maintain the licensed premises in an active manner in which the licensed premises are open for business to the public for the bona fide retail sale of authorized alcoholic beverages during regular and reasonable business hours for at least 8 hours a day for a period of 210 days or more during any 12-month period commencing 6 months after the acquisition of the license by the licensee. It is the intent of this act that for purposes of compliance with this paragraph, a licensee shall operate the licensed premises in a manner so as to maximize sales and tax revenues thereon; this includes maintaining a reasonable inventory of merchandise, including authorized alcoholic beverages, and the use of good business practices to achieve the intent of this law. Any attempt by a licensee to circumvent the intent of this law shall be grounds for revocation or suspension of the alcoholic beverage license. The division may, upon written request of the licensee, give a written waiver of this requirement for a period not to exceed 12 months in cases where the licensee demonstrates that the licensed premises has been physically destroyed through no fault of the licensee, when the licensee has suffered an incapacitating illness or injury which is likely to be prolonged, or when the licensed premises has been prohibited from making sales as a result of any action of any court of competent jurisdiction. Any waiver given pursuant to this subsection may be continued upon subsequent written request showing that substantial progress has been made toward restoring the licensed premises to a condition suitable for the resumption of sales or toward allowing for a court having jurisdiction over the premises to release said jurisdiction, or that an incapacitating illness or injury continues to exist. However, in no event may the waivers necessitated by any one occurrence cumulatively total more than 24 months. Every licensee shall notify the division in writing of any period during which his or her license is inactive and place the physical license with the division to be held in an inactive status.

(2) The division, or any employee designated by it, shall have the power and authority to examine into the business, books, records, and accounts of any licensee, to issue subpoenas to said licensee or any other person from whom information is desired, and to take depositions of witnesses within or without of the state. The division, or any employee designated by it, may administer oaths and issue subpoenas. The provisions of the civil law of the state in relation to enforcing obedience to a subpoena lawfully issued by a judge or other person duly authorized to issue subpoenas under the laws of

the state, to issue subpoenas in civil cases, shall apply to a subpoena issued by the division, or any employee designated by it, as authorized in this section, and may be enforced by writ of attachment to be issued by the division, or any employee designated by it, for such witness to compel him or her to attend before the division, or any employee designated by it, and give his or her testimony and to bring and produce such books, papers, and documents as may be required for examination; and the division, or any employee designated by it, may punish any willful refusal to so appear or give testimony by citation of any witness before the circuit court who shall punish such witness for contempt as in cases of refusal to obey the orders and process of the circuit court. The division may in such cases pay such attendance and mileage fees as are permitted to be paid to witnesses in civil cases appearing before the circuit court.

(3) The division may impose a civil penalty against a licensee for any violation mentioned in the Beverage Law, or any rule issued pursuant thereto, not to exceed \$1,000 for violations arising out of a single transaction. If the licensee fails to pay the civil penalty, his or her license shall be suspended for such period of time as the division may specify. The funds so collected as civil penalties shall be deposited in the state General Revenue Fund.

Section 846. Subsection (1) of section 561.32, Florida Statutes, is amended to read:

561.32 Transfer of licenses; change of officers or directors; transfer of interest.—

(1) Licenses issued under the provisions of the Beverage Law shall not be transferable except as follows:

(a) When a licensee has made a bona fide sale of the business which he or she is so licensed to conduct, he or she may obtain a transfer of such license to the purchaser of the business, provided the application of the purchaser is approved by the division in accordance with the same procedure provided for in ss. 561.17, 561.18, 561.19, and 561.65.

(b) A person holding a lien against an alcoholic beverage license may have his or her rights enforced in a judicial proceeding, subject to the rights of lienholders set forth in s. 561.65. However, any person having a security interest in an alcoholic beverage license is deemed to be interested indirectly in such license; and he or she shall be disclosed to the division and shall be subject to the qualifications of the Beverage Law as a precondition to the enforcement of the security interest. The foreclosure of a security interest or judicial transfer of a license shall not prevent the division from suspending the license or imposing a civil penalty against the licensee of record that held the license at the time of the Beverage Law violation. However, should the division obtain a revocation of the license against the previous licensee of record, the revocation shall be effective only to impair the qualifications of the officers, directors, stockholders, or persons having any interest in the license at the time of the revocable offense.

Section 847. Subsections (1) and (2) of section 561.33, Florida Statutes, are amended to read:

561.33 Licensee moving to new location; changing name of business.—

(1) Any licensee may move his or her place of business and sell at his or her new place of business upon approval by the division of the licensee's application for such change of location. Upon approval of the application, there shall be issued to such licensee a license for the new location upon the payment of a fee of \$35. If the new place of business is in a county having a different license tax year from the county where the original license was issued, an additional appropriate license tax shall be paid by the licensee before the issuance of the license applied for if the effect of the transfer is an extension of the licensing period for the licensee.

(2) No licensee may change the name of his or her place of business without first giving the division 30 days' notice in writing of such change and paying a fee of \$10.

Section 848. Section 561.37, Florida Statutes, is amended to read:

561.37 Bond for payment of taxes.—Each manufacturer and each distributor shall file with the division a surety bond acceptable to the division in the sum of \$25,000 as surety for the payment of all taxes, provided, however, that when in the discretion of the division the amount of business done by the manufacturer or distributor is of such volume that a bond of less than \$25,000 will be adequate to secure the payment of all taxes assessed or authorized by the Beverage Law, the division may accept a bond in a lesser sum than \$25,000, but in no event shall it accept a bond of less than \$10,000, and it may at any time in its discretion require any bond in an amount less than \$25,000 to be increased so as not to exceed \$25,000; provided, however, that the amount of bond required for a brewer shall be \$20,000, except that where, in the discretion of the division, the amount of business done by the brewer is of such volume that a bond of less than \$20,000 will be adequate to secure the payment of all taxes assessed or authorized by the Beverage Law, the division may accept a bond in a lesser sum than \$20,000, but in no event shall it accept a bond of less than \$10,000, and it may at any time in its discretion require any bond in an amount less than \$20,000 to be increased so as not to exceed \$20,000; provided further that the amount of the bond required for a wine or wine and cordial manufacturer shall be \$5,000, except that, in the case of a manufacturer engaged solely in the experimental manufacture of wines and cordials from Florida products, where in the discretion of the division the amount of business done by such manufacturer is of such volume that a bond of less than \$5,000 will be adequate to secure the payment of all taxes assessed or authorized by the Beverage Law, the division may accept a bond in a lesser sum than \$5,000, but in no event shall it accept a bond of less than \$1,000 and it may at any time in its discretion require a bond in an amount less than \$5,000 to be increased so as not to exceed \$5,000; provided, further, that the amount of bond required for a distributor who sells only beverages containing not more than 4.007 percent of alcohol by volume, in counties where the sale of intoxicating liquors, wines, and beers is prohibited, and to distributors who sell

only beverages containing not more than 17.259 percent of alcohol by volume and wines regardless of alcoholic content, in counties where the sale of intoxicating liquors, wines, and beers is permitted, shall file with the division a surety bond acceptable to the division in the sum of \$25,000, as surety for the payment of all taxes; provided, however, that where in the discretion of the division the amount of business done by such distributor is of such volume that a bond of less than \$25,000 will be adequate to secure the payment of all taxes assessed or authorized by the Beverage Law the division may accept a bond in a less sum than \$25,000 but in no event shall it accept a bond less than \$1,000 and it may at any time in its discretion require any bond in an amount less than \$25,000 to be increased so as not to exceed \$25,000; provided, further, that the amount of bond required for a distributor in a county having a population of 15,000 or less who procures a license by which his or her sales are restricted to distributors and vendors who have obtained licenses in the same county, shall be \$5,000.

Section 849. Subsections (4), (5), (10), (11), and (12) of section 561.42, Florida Statutes, are amended to read:

561.42 Tied house evil; financial aid and assistance to vendor by manufacturer or distributor prohibited; procedure for enforcement; exception.—

(4) Before the division shall so declare and prohibit such sales to such vendor, it shall, within 2 days after receipt of such notice, give written notice to such vendor by mail of the receipt by the division of such notification of delinquency and such vendor shall be directed to forthwith make payment thereof or, upon failure to do so, to show cause before the division why further sales to such vendor shall not be prohibited. Good and sufficient cause to prevent such action by the division may be made by showing payment, failure of consideration, or any other defense which would be considered sufficient in a common-law action. The vendor shall have 5 days after receipt of such notice within which to show such cause, and he or she may demand a hearing thereon, provided he or she does so in writing within said 5 days, such written demand to be delivered to the division either in person or by due course of mail within such 5 days. If no such demand for hearing is made, the division shall thereupon declare in writing to such vendor and to all manufacturers and distributors within the state that all further sales to such vendor are prohibited until such time as the division certifies in writing that such vendor has fully paid for all liquors previously purchased. In the event such prohibition of sales and declaration thereof to the vendor, manufacturers, and distributors is ordered by the division, the vendor may seek review of such decision by the Department of Business and Professional Regulation within 5 days. In the event application for such review is filed within such time, such prohibition of sales shall not be made, published, or declared until final disposition of such review by the department.

(5) Upon receipt by the division from the distributor of the notice of nonpayment provided for by subsection (3), the division shall forthwith notify such delinquent vendor and all distributors in the state that no further purchases or sales of liquor by or to such vendor, except for cash, shall be made until good cause is shown by such vendor as heretofore provided for. No liquor shall be purchased by such vendor or sold to him or her by any

distributor, except for cash, from and after such notification by the division and until such cause is shown as is provided for in subsection (4). In the event no good cause is shown, then all further sales, for cash or credit, are hereby prohibited after such declaration in writing by the division is sent to such vendor and distributors and until all delinquent accounts have been paid.

(10) No manufacturer or distributor of the beverages referred to herein shall directly or indirectly give, lend, rent, sell, or in any other manner furnish to a vendor any outside sign, printed, painted, electric, or otherwise; nor shall any vendor display any sign advertising any brand of alcoholic beverages on the outside of his or her licensed premises, on any lot of ground of which the licensed premises are situate, or on any building of which the licensed premises are a part.

(11) A vendor may display in the interior of his or her licensed premises, including the window or windows thereof, neon, electric, or other signs, including window painting and decalcomanias applied to the surface of the interior or exterior of such windows, and posters, placards, and other advertising material advertising the brand or brands of alcoholic beverages sold by him or her, whether visible or not from the outside of the licensed premises, but no vendor shall display in the window or windows of his or her licensed premises more than one neon, electric, or similar sign, advertising the product of any one manufacturer.

(12) Any manufacturer or distributor may give, lend, furnish, or sell to a vendor who sells the products of such manufacturer or distributor neon or electric signs, window painting and decalcomanias, posters, placards, and other advertising material herein authorized to be used or displayed by the vendor in the interior of his or her licensed premises. The division shall make reasonable rules governing promotional displays and advertising, which rules shall not conflict with or be more stringent than the federal regulations pertaining to such promotional displays and advertising furnished to vendors by distributors and manufacturers; provided, however, that:

(a) If a manufacturer or distributor of malt beverage provides a vendor with expendable retailer advertising specialties such as trays, coasters, mats, menu cards, napkins, cups, glasses, thermometers, and the like, such items shall be sold at a price not less than the actual cost to the industry member who initially purchased them, without limitation in total dollar value of such items sold to a vendor.

(b) Without limitation in total dollar value of such items provided to a vendor, a manufacturer or distributor of malt beverage may rent, loan without charge for an indefinite duration, or sell durable retailer advertising specialties such as clocks, pool table lights, and the like, which bear advertising matter.

(c) If a manufacturer or distributor of malt beverage provides a vendor with consumer advertising specialties such as ashtrays, T-shirts, bottle openers, shopping bags, and the like, such items shall be sold at a price not less than the actual cost to the industry member who initially purchased

them, but may be sold without limitation in total value of such items sold to a vendor.

(d) A manufacturer or distributor of malt beverage may provide consumer advertising specialties described in paragraph (c) to consumers on any vendor's licensed premises.

(e) Coupons redeemable by vendors shall not be furnished by distributors of beer to consumers.

(f) Manufacturers or distributors of beer shall not conduct any sampling activities that include tasting of their product at a vendor's premises licensed for off-premises sales only.

(g) Manufacturers and distributors of beer shall not engage in cooperative advertising with vendors.

(h) Distributors of beer may sell to vendors draft equipment and tapping accessories at a price not less than the cost to the industry member who initially purchased them, except there is no required charge, and a distributor may exchange any parts which are not compatible with a competitor's system and are necessary to dispense the distributor's brands. A distributor of beer may furnish to a vendor at no charge replacement parts of nominal intrinsic value, including, but not limited to, washers, gaskets, tail pieces, hoses, hose connections, clamps, plungers, and tap markers.

Section 850. Section 561.421, Florida Statutes, is amended to read:

561.421 Temporary convention permits.—In convention halls, coliseums, and similar type buildings where there is an existing beverage license, upon the approval of the incorporated city, town, or board of county commissioners, the director may, in his or her discretion, issue a permit for not more than 5 calendar days for the display by manufacturers or distributors of products licensed under the Beverage Law; and may authorize consumption of such beverages on the premises only.

Section 851. Subsections (2), (4), and (5) of section 561.57, Florida Statutes, are amended to read:

561.57 Deliveries by licensees.—

(2) Deliveries made by a manufacturer, distributor, or vendor away from his or her place of business may be made only in vehicles which are owned or leased by the licensee. By acceptance of an alcoholic beverage license and the use of such vehicles, the licensee agrees that such vehicle shall always be subject to be inspected and searched without a search warrant, for the purpose of ascertaining that all provisions of the alcoholic beverage laws are complied with, by authorized employees of the division and also by sheriffs, deputy sheriffs, and police officers during business hours or other times the vehicle is being used to transport or deliver alcoholic beverages.

(4) The division shall have prepared for issuance vehicle permits or decals suitable to be attached to such vehicles, with the words, "Beverage

Vehicle No.," which may be obtained by any vendor upon payment of a fee of \$5 to the division. Such permits shall be valid and will not expire unless the vendor disposes of his or her vehicle, or the vendor's alcoholic beverage license is transferred, canceled, not renewed, or is revoked by the division, whichever occurs first. By acceptance of a vehicle permit, the licensee agrees that such vehicle shall always be subject to be inspected and searched without a search warrant, for the purpose of ascertaining that all provisions of the alcoholic beverage laws are complied with, by authorized employees of the division and also by sheriffs, deputy sheriffs, and police officers during business hours or other times the vehicle is being used to transport or deliver alcoholic beverages.

(5) Nothing contained in this section shall prohibit deliveries by the licensee from his or her permitted storage area or deliveries by a distributor from the manufacturer to his or her licensed premises; nor shall a pool buying agent be prohibited from transporting pool purchases to the licensed premises of his or her members with the licensee's owned or leased vehicles, and in such cases, no vehicle permit shall be required in the transporting of such alcoholic beverages. In addition, a licensed salesperson ~~salesman~~ of wine and spirits is authorized to deliver alcoholic beverages in his or her vehicle on behalf of the distributor without having to obtain a vehicle permit.

Section 852. Subsection (1) of section 561.65, Florida Statutes, is amended to read:

561.65 Mortgagee's interest in license.—

(1) Any person holding a bona fide mortgage or lien or security interest in a spirituous alcoholic beverage license in this state shall have the right to enforcement of a lien against that license within 12 days after any order of revocation or suspension by an administrative officer or department of the government for a cause or causes of which the lienholder did not have knowledge or in which he or she did not participate. The division is required to notify any lienholder properly filing pursuant to subsection (4) of a pending revocation or suspension. Liens or security interests in spirituous alcoholic beverage licenses existing prior to July 1, 1981, shall not be affected by the provisions of this section.

Section 853. Subsections (1), (2), (3), and (5) of section 561.68, Florida Statutes, are amended to read:

561.68 Licensure; distributor's salespersons ~~salesmen~~.—

(1)(a) Before any person may solicit or sell to vendors or become employed as a salesperson ~~salesman~~ of spirituous or vinous beverages for a licensed Florida distributor in accordance with the provisions of this section, such person shall file with the district supervisor of the district of the Division of Alcoholic Beverage and Tobacco in which the distributor's premises is located a sworn application for a license on forms provided by the division. Prior to any application being approved, the division shall require the applicant to file a fee of \$50 and file a set of fingerprints on regular United States Department of Justice forms.

(b) Any person employed as a salesperson ~~salesman~~ of spirituous or vi-
nous beverages for a licensed Florida distributor on October 1, 1986, shall
not be required to submit a set of fingerprints to the division with his or her
application for licensure.

(2) After the application has been filed, the district supervisor shall cause
the application to be fully investigated. Upon the completion of the investi-
gation the division shall approve or disapprove the application. If approved
the license shall be issued. Licenses shall be issued only to persons meeting
the qualifications of s. 561.15 and any other requirements of the Beverage
Law. Upon issuance, the salesperson's ~~salesman's~~ license shall be valid and
remain in effect unless the salesperson ~~salesman~~ has a break in employ-
ment. If a licensee salesperson ~~salesman~~ has a break in employment longer
than 90 days during which time the salesperson ~~salesman~~ is not employed
by any Florida distributor, the salesperson ~~salesman~~ must obtain a new
salesperson's ~~salesman's~~ license by complying with the requirements for
original issuance.

(3) Each licensed salesperson ~~salesman~~ is required to comply with all
aspects of the Beverage Law to the same extent as all licensees and any
violation of the Beverage Law shall cause the license to be subject to suspen-
sion or revocation.

(5) The fee collected for a salesperson's ~~salesman's~~ license pursuant to
this section shall go directly to the Department of Business and Professional
Regulation to provide funds to administer the provisions contained herein.

Section 854. Section 562.02, Florida Statutes, is amended to read:

562.02 Possession of beverage not permitted to be sold under license.—
It is unlawful for a licensee under the Beverage Law or his or her agent to
have in his or her possession, or permit anyone else to have in his or her
possession, at or in the place of business of such licensee, alcoholic beverages
not authorized by law to be sold by such licensee.

Section 855. Section 562.03, Florida Statutes, is amended to read:

562.03 Storage on licensed premises.—It is unlawful for any vendor to
store or keep any alcoholic beverages except for the personal consumption
of the vendor, the vendor's ~~his~~ family and guest in any building or room other
than the building or room shown in the diagram accompanying his or her
license application or in another building or room approved by the division.

Section 856. Section 562.061, Florida Statutes, is amended to read:

562.061 Misrepresentation of beverages sold on licensed premises.—It is
unlawful for any licensee, his or her agent or employee knowingly to sell or
serve any beverage represented or purporting to be an alcoholic beverage
which in fact is not such beverage. It is further unlawful for any licensee
knowingly to keep or store on the licensed premises any bottles which are
filled or contain liquid other than that stated on the label of such bottle.

Section 857. Subsection (5) of section 562.07, Florida Statutes, is
amended to read:

562.07 **Illegal transportation of beverages.**—It is unlawful for alcoholic beverages to be transported in quantities of more than 12 bottles except as follows:

(5) By a vendor, distributor, pool buying agent, or salesperson ~~salesman~~ of wine and spirits as outlined in s. 561.57(5).

Section 858. Paragraph (b) of subsection (1) and subsection (2) of section 562.11, Florida Statutes, are amended to read:

562.11 **Selling, giving, or serving alcoholic beverages to person under age 21; misrepresenting or misstating age or age of another to induce licensee to serve alcoholic beverages to person under 21; penalties.**—

(1)

(b) A licensee who violates paragraph (a) shall have a complete defense to any civil action therefor, except for any administrative action by the division under the Beverage Law, if, at the time the alcoholic beverage was sold, given, served, or permitted to be served, the person falsely evidenced that he or she was of legal age to purchase or consume the alcoholic beverage and the appearance of the person was such that an ordinarily prudent person would believe him or her to be of legal age to purchase or consume the alcoholic beverage and if the licensee carefully checked one of the following forms of identification with respect to the person: a driver's license, an identification card issued under the provisions of s. 322.051 or, if the person is physically handicapped as defined in s. 553.45(1), a comparable identification card issued by another state which indicates the person's age, a passport, or a United States Uniformed Services identification card, and acted in good faith and in reliance upon the representation and appearance of the person in the belief that he or she was of legal age to purchase or consume the alcoholic beverage. Nothing herein shall negate any cause of action which arose prior to June 2, 1978.

(2) It is unlawful for any person to misrepresent or misstate his or her age or the age of any other person for the purpose of inducing any licensee or his or her agents or employees to sell, give, serve, or deliver any alcoholic beverages to a person under 21 years of age.

(a) Anyone convicted of violating the provisions of this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person under the age of 17 years who violates such provisions shall be within the jurisdiction of the judge of the circuit court and shall be dealt with as a juvenile delinquent according to law.

(c) In addition to any other penalty imposed for a violation of this subsection, if a person uses a driver's license or identification card issued by the Department of Highway Safety and Motor Vehicles in violation of this subsection, the court:

1. May order the person to participate in public service or a community work project for a period not to exceed 40 hours; and

2. Shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of, or suspend or revoke, the person's driver's license or driving privilege, as provided in s. 322.056.

Section 859. Subsection (1) of section 562.111, Florida Statutes, is amended to read:

562.111 Possession of alcoholic beverages by persons under age 21 prohibited.—

(1) It is unlawful for any person under the age of 21 years, except a person employed under the provisions of s. 562.13 acting in the scope of her or his employment, to have in her or his possession alcoholic beverages, except that nothing contained in this subsection shall preclude the employment of any person 18 years of age or older in the sale, preparation, or service of alcoholic beverages in licensed premises in any establishment licensed by the Division of Alcoholic Beverages and Tobacco or the Division of Hotels and Restaurants. Notwithstanding the provisions of s. 562.45, any person under the age of 21 who is convicted of a violation of this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; however, any person under the age of 21 who has been convicted of a violation of this subsection and who is thereafter convicted of a further violation of this subsection is, upon conviction of the further offense, guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 860. Subsections (1) and (3) of section 562.12, Florida Statutes, are amended to read:

562.12 Beverages sold with improper license, or without license or registration, or held with intent to sell prohibited.—

(1) It is unlawful for any person to sell alcoholic beverages without a license, and it is unlawful for any licensee to sell alcoholic beverages except as permitted by her or his license, or to sell such beverages in any manner except that permitted by her or his license; and any licensee or other person who keeps or possesses alcoholic beverages not permitted to be sold by her or his license, or not permitted to be sold without a license, with intent to sell or dispose of same unlawfully, or who keeps and maintains a place where alcoholic beverages are sold unlawfully, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Upon the arrest of any licensee or other person charged with a violation of this section, the arresting officer shall take into her or his custody all alcoholic beverages found in the possession, custody, or control of the person arrested or, in the case of a licensee, all alcoholic beverages not within the purview of her or his license, and safely keep and preserve the same and have it forthcoming at any investigation, prosecution, or other proceeding for the violation of this section and for the destruction of the same as provided herein. Upon the conviction of the person arrested for a violation of this section, the judge of the court trying the case, after notice to the person convicted and any other person whom the judge may be of the opinion is entitled to notice, as the judge may deem reasonable, shall issue

to the sheriff of the county, the division, or the authorized municipality a written order adjudging and declaring the alcoholic beverages forfeited and directing the sheriff, the division, or the authorized municipality to dispose of the alcoholic beverages as provided in s. 562.44 or s. 568.10.

Section 861. Paragraphs (d) and (e) of subsection (2) of section 562.13, Florida Statutes, are amended to read:

562.13 Employment of minors or certain other persons by certain vendors prohibited; exceptions.—

(2) This section shall not apply to:

(d) Persons 17 years of age or over or any person furnishing evidence that he or she is a senior high school student with written permission of the principal of said senior high school or that he or she is a senior high school graduate, or any high school graduate, employed by a bona fide food service establishment where alcoholic beverages are sold, provided such persons do not participate in the sale, preparation, or service of the beverages and that their duties are of such nature as to provide them with training and knowledge as might lead to further advancement in food service establishments.

(e) Persons under the age of 18 years employed as bellhops, elevator operators ~~boys~~, and others in hotels when such employees are engaged in work apart from the portion of the hotel property where alcoholic beverages are offered for sale for consumption on the premises.

Section 862. Subsections (1) and (2) of section 562.131, Florida Statutes, are amended to read:

562.131 Solicitation for sale of alcoholic beverage prohibited; penalty.—

(1) It is unlawful for any licensee, his or her employee, agent, servant, or any entertainer employed at the licensed premises or employed on a contractual basis to entertain, perform or work upon the licensed premises to beg or solicit any patron or customer thereof or visitor in any licensed premises to purchase any beverage, alcoholic or otherwise, for such licensee's employee, agent, servant, or entertainer.

(2) It is unlawful for any licensee, his or her employee, agent, or servant to knowingly permit any person to loiter in or about the licensed premises for the purpose of begging or soliciting any patron or customer of, or visitor in, such premises to purchase any beverage, alcoholic or otherwise.

Section 863. Section 562.16, Florida Statutes, is amended to read:

562.16 Possession of beverages upon which tax is unpaid.—Any person or corporation who shall own or have in her or his or its possession any beverage upon which a tax is imposed by the Beverage Law, or which would be imposed if such beverage were manufactured in or brought into this state in accordance with the regulatory provisions of the Beverage Law, and upon which such tax has not been paid shall, in addition to the fines and penalties otherwise provided in the Beverage Law, be personally liable for the amount

of the tax imposed on such beverage, and the division may collect such tax from such person by suit or otherwise; provided, that this section shall not apply to manufacturers or distributors licensed under the Beverage Law, to state bonded warehouses or to common carriers; provided, further, this section shall not apply to persons possessing not in excess of 1 gallon of such beverages; provided, the beverage shall have been purchased by said possessor outside of the state in accordance with the laws of the place where purchased and shall have been brought into this state by said possessor. The burden of proof that such beverages were purchased outside the state and in accordance with the laws of the place where purchased in all cases shall be upon the possessor of such beverages.

Section 864. Section 562.18, Florida Statutes, is amended to read:

562.18 Possession of beverage upon which federal tax unpaid.—It is unlawful for any person to have in her or his possession within this state any alcoholic beverage on which a federal excise tax is required to be paid, unless such federal excise tax has been paid as to such beverage.

Section 865. Subsections (1) and (2) of section 562.27, Florida Statutes, are amended to read:

562.27 Seizure and forfeiture.—

(1) It is unlawful for any person to have in her or his possession, custody, or control, or to own, make, construct, or repair, any still, still piping, still apparatus, or still worm, or any piece or part thereof, designed or adapted for the manufacture of an alcoholic beverage, or to have in her or his possession, custody or control any receptacle or container containing any mash, wort, or wash, or other fermented liquids whatever capable of being distilled or manufactured into an alcoholic beverage, unless such possession, custody, control, ownership, manufacture, construction, or repairing be by or for a person authorized by law to manufacture such alcoholic beverage.

(2) It is unlawful for any person to have in her or his possession, custody, or control any raw materials or substance intended to be used in the distillation or manufacturing of an alcoholic beverage unless the person holds a license from the state authorizing the manufacture of the alcoholic beverage.

Section 866. Section 562.28, Florida Statutes, is amended to read:

562.28 Possession of beverages in fraud of Beverage Law.—All beverages on which taxes are imposed by the Beverage Law or would be imposed if such beverages were manufactured in or brought into this state in accordance with the regulatory provisions of such law, which shall be found in the possession, or custody, or within the control of any person, for the purpose of being sold or removed by her or him in fraud of the Beverage Law, or with design to evade payment of said taxes, may be seized by the division or any sheriff or deputy sheriff and shall be forfeited to the state.

Section 867. Subsection (1) of section 562.34, Florida Statutes, is amended to read:

562.34 Containers; seizure and forfeiture.—

(1) It shall be unlawful for any person to have in her or his possession, custody, or control any cans, jugs, jars, bottles, vessels, or any other type of containers which are being used, are intended to be used, or are known by the possessor to have been used to bottle or package alcoholic beverages; however, this provision shall not apply to any person properly licensed to bottle or package such alcoholic beverages or to any person intending to dispose of such containers to a person, firm, or corporation properly licensed to bottle or package such alcoholic beverages.

Section 868. Subsections (3) and (4) of section 562.41, Florida Statutes, are amended to read:

562.41 Searches; penalty.—

(3) Any owner of such premises or person having the agency, superintendency, or possession of same, who refuses to admit such officer or to suffer her or him to examine such beverages, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Any person who shall forcibly obstruct or hinder the director, any division employee, any sheriff, any deputy sheriff, or any police officer in the execution of any power or authority vested in her or him by law, or who shall forcibly rescue or cause to be rescued any property if the same shall have been seized by such officer, or shall attempt or endeavor to do so, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 869. Subsections (1) and (2) of section 562.451, Florida Statutes, are amended to read:

562.451 Moonshine whiskey; ownership, possession, or control prohibited; penalties; rule of evidence.—

(1) Any person who owns or has in her or his possession or under her or his control less than 1 gallon of liquor, as defined in the Beverage Law, which was not made or manufactured in accordance with the laws in effect at the time when and place where the same was made or manufactured shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person who owns or has in her or his possession or under her or his control 1 gallon or more of liquor, as defined in the Beverage Law, which was not made or manufactured in accordance with the laws in effect at the time when and place where the same was made or manufactured shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 870. Subsection (4) of section 562.454, Florida Statutes, is amended to read:

562.454 Vendors to be closed in time of riot.—

(4) Any person who knowingly violates any of the provisions of this section or the proclamation or permits any person in his or her employ to do so or connives with any other person to evade the terms of such proclamation shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 871. Subsection (3) of section 562.47, Florida Statutes, is amended to read:

562.47 Rules of evidence; Beverage Law.—In all prosecutions for violations of the Beverage Law:

(3) Any person or persons who by experience in the past in the handling or use of intoxicating liquors, or who by taste, smell, or the drinking of such liquors has knowledge as to the intoxicating nature thereof, may testify as to his or her opinion whether such beverage or liquor is or is not intoxicating, and a verdict based upon such testimony shall be valid.

Section 872. Subsections (2) and (3) of section 563.02, Florida Statutes, are amended to read:

563.02 License fees; vendors; manufacturers and distributors.—

(2) Each manufacturer engaged in the business of brewing only malt beverages shall pay an annual state license tax of \$3,000 for each plant or branch he or she may operate. However, each manufacturer engaged in the business of brewing less than 10,000 kegs of malt beverages annually for consumption on the premises pursuant to s. 561.221(3) shall pay an annual state license tax of \$500 for each plant or branch.

(3) Each distributor who shall distribute or sell alcoholic beverages containing less than 17.259 percent alcohol by volume shall pay an annual state license tax of \$1,250 for each establishment or branch he or she may operate.

Section 873. Paragraph (b) of subsection (5), paragraph (e) of subsection (7), paragraph (c) of subsection (18), and paragraphs (b) and (e) of subsection (20) of section 563.022, Florida Statutes, are amended to read:

563.022 Relations between beer distributors and manufacturers.—

(5) UNFAIR AND PROHIBITED ACTS.—

(b) It shall be deemed a violation of subsection (4) for a manufacturer or officer, agent, or other representative thereof:

1. To coerce or compel, or attempt to coerce or compel, any beer distributor to order or accept delivery of any beer or any other commodity or commodities which such beer distributor has not voluntarily ordered.

2. To refuse to deliver in reasonable quantities and within a reasonable time after receipt of the distributor's order to any distributor having a franchise or contractual agreement for the distribution and sale of beer sold by such manufacturer, beer covered by such franchise or contract. However, the failure to deliver any such beer shall not be considered a violation of this

section if such failure is due to prudent and reasonable restriction on extension of credit by the manufacturer to the distributor, an act of God, work stoppage or delay due to a strike or labor difficulty, a bona fide shortage of materials, freight embargo, or other cause over which the manufacturer, or any agent thereof, shall have no control whatsoever.

3. To coerce or compel, or attempt to coerce or compel, a beer distributor to enter into any agreement, whether written or oral, supplementary to an existing franchise with such manufacturer or officer, agent, or other representative thereof, or to do any other act prejudicial to such distributor, by threatening to cancel any franchise or any contractual agreement existing between such manufacturer and such distributor. However, notice in good faith to a beer distributor of such distributor's violation or breach of any terms or provisions of such franchise or contractual agreement shall not constitute a violation of this section if such notice is in writing, is mailed by registered or certified mail to such distributor at his or her current business address, and contains the specific facts as to the distributor's violation or breach of such franchise or contractual agreement.

4. To terminate, cancel, fail to renew, or refuse to continue the franchise or selling agreement of any such distributor without good cause as defined in subsections (7) and (10). The nonrenewal of a franchise or selling agreement without good cause shall constitute an unfair termination or cancellation regardless of the specified time period of such franchise or selling agreement.

5. To willfully discriminate, either directly or indirectly, in price offered to franchisees where the effect of such discrimination is likely to substantially lessen competition.

6. To prevent or attempt to prevent, by contract or otherwise, any beer distributor from changing the capital structure of his or her distributorship or the means by or through which he or she finances the operation of his or her distributorship, provided that the distributor at all times meets capital standards which are reasonable in light of generally accepted capital standards within the manufacturer's beer distribution system. Nothing in this subparagraph diminishes the right of a manufacturer to prohibit public ownership of its franchises.

7. To prevent or attempt to prevent, by contract or otherwise, any beer distributor or any officer, member partner, or stockholder of any beer distributor from selling or transferring any part of the interest of any of them to any other person or persons or party or parties. However, no distributor, officer, partner, or stockholder shall have the right to sell, transfer, or assign the franchise or power of management or control thereunder without the written consent of the manufacturer, distributor, or wholesaler, except that such consent shall not be unreasonably withheld.

a. No manufacturer shall unreasonably withhold or delay its approval of any assignment, sale, or transfer of the stock of a distributor or of all or any portion of a distributor's assets, a distributor's voting stock, the voting stock of any parent corporation, or the beneficial ownership or control of any other entity owning or controlling a distributor, including the distributor's rights

and obligations under the terms of an agreement, whenever the person or persons to be substituted meet reasonable qualifications. Upon the death of one of the partners of a partnership operating the business of a distributor, no manufacturer shall deny the surviving partner or partners of such partnership the right to become a successor-in-interest to the agreement between the manufacturer and such partnership, provided that the survivor has been active in the management of the partnership and is otherwise capable of carrying on the business of the partnership, and provided further that such right is consistent with the rights and desires of the heirs or devisees of the deceased partner.

b. Notwithstanding the provisions of subparagraph a., upon the death of a distributor, no manufacturer shall deny approval for any transfer of ownership to a designated member of the family of an owner of a distributor; provided, however, that any subsequent transfer of such ownership by such designated member shall thereafter be subject to the provisions of subparagraph a.

8. To obtain money, goods, services, anything of value, or any other benefit from any person in exchange for having coerced or compelled a beer distributor to do business with such other person.

9. To require a beer distributor to assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability imposed by this section.

10. To restrict or inhibit, directly or indirectly, the right of free association among manufacturers or distributors of beer for any lawful purpose.

11. To fix or maintain the price at which a distributor may resell beer.

12. To coerce or attempt to coerce any distributor to accept delivery of any beer or other commodity ordered by a distributor if the order was properly canceled by the distributor.

13. To change a distributor's quota of a brand or brands if the change is not made in good faith.

14. To require a distributor, by any means, to participate in or contribute to any local or national advertising fund controlled directly or indirectly by a manufacturer.

15. To take any retaliatory action against a distributor that files a complaint regarding an alleged violation by the manufacturer of state or federal law or an administrative rule.

16. To require or prohibit, without good cause provided in writing, any change in the manager or successor manager of any distributor who has been approved by the manufacturer as of June 4, 1987. Should a distributor change an approved manager or successor manager, a manufacturer shall not require or prohibit the change unless the person fails to meet the reasonable written standards for Florida distributors of the manufacturer which standards have been provided to the distributor.

(7) GOOD CAUSE.—Notwithstanding any agreement, good cause shall exist for the purposes of a termination, cancellation, nonrenewal, or discontinuance under paragraph (6)(c) when all of the following occur:

(e) The distributor has been afforded 30 days in which to submit a plan of corrective action to comply with the agreement and an additional 90 days to cure such noncompliance in accordance with the plan or to sell his or her distributorship consistent with the provisions of this section.

(18) REMEDIES.—

(c) In addition to temporary, preliminary, or final injunctive relief, any person who shall be aggrieved or injured in his or her business or property by reason of anything forbidden in this section may bring an action therefor in the appropriate circuit court of this state and, if successful shall recover the damages sustained and the costs of such action, including a reasonable attorney's fee.

(20) REPURCHASE OF INVENTORY UPON TERMINATION.—

(b) The manufacturer shall repurchase that inventory previously purchased from him or her and held by the distributor on the date of termination of the contract. The manufacturer shall pay 100 percent of the actual distributor cost, including freight and reasonable storage and handling costs, of all unsold beer.

(e) If any manufacturer shall fail or refuse to repurchase any inventory covered under the provisions of this section within 60 days after termination of a distributor's contract, he or she shall be civilly liable for 100 percent of the current wholesale price of the inventory plus any freight charges paid by the distributor, the distributor's reasonable attorney's fees, court costs, and interest on the current wholesale price computed at the legal interest rate provided in s. 687.01 from the 61st day after termination.

Section 874. Subsection (2) and paragraph (a) of subsection (3) of section 564.02, Florida Statutes, are amended to read:

564.02 License fees; vendors; manufacturers and distributors.—

(2) Each wine manufacturer authorized to do business under the Beverage Law shall pay an annual state license tax for each plant or branch he or she may operate, as follows:

(a) If engaged in the manufacturing or bottling of wines and of nothing else, he or she shall pay \$1,000.

(b) If engaged in the manufacturing of wines and cordials and of nothing else, he or she shall pay \$2,000.

(3)(a) Each distributor authorized to sell brewed beverages containing malt, wines, and fortified wines in counties where the sale of intoxicating liquors, wines, and beers is permitted shall pay for each and every such establishment or branch he or she may operate or conduct a state license tax of \$1,250.

Section 875. Subsection (9) of section 565.02, Florida Statutes, is amended to read:

565.02 License fees; vendors; clubs; caterers; and others.—

(9) It is the finding of the Legislature that passenger vessels engaged exclusively in foreign commerce are susceptible to a distinct and separate classification for purposes of the sale of alcoholic beverages under the Beverage Law. Upon the filing of an application and payment of an annual fee of \$1,100, the director is authorized to issue a permit authorizing the operator, or, if applicable, his or her concessionaire, of a passenger vessel which has cabin-berth capacity for at least 75 passengers, and which is engaged exclusively in foreign commerce, to sell alcoholic beverages on the vessel for consumption on board only:

(a) During a period not in excess of 24 hours prior to departure while the vessel is moored at a dock or wharf in a port of this state; or

(b) At any time while the vessel is located in Florida territorial waters and is in transit to or from international waters.

One such permit shall be required for each such vessel and shall name the vessel for which it is issued. No license shall be required or tax levied by any municipality or county for the privilege of selling beverages for consumption on board such vessels. The beverages so sold may be purchased outside the state by the permittee, and the same shall not be considered as imported for the purposes of s. 561.14(3) solely because of such sale. The permittee is not required to obtain its beverages from licensees under the Beverage Law, but it shall keep a strict account of all such beverages sold within this state and shall make monthly reports to the division on forms prepared and furnished by the division. A permittee who sells on board the vessel beverages withdrawn from United States Customs Service bonded storage on board the vessel may satisfy such accounting requirement by supplying the division with copies of the appropriate United States Customs Service forms evidencing such withdrawals as importations under United States customs laws. Such permittee shall pay to the state an excise tax for beverages sold pursuant to this section, if such excise tax has not previously been paid, in an amount equal to the tax which would be required to be paid on such sales by a licensed manufacturer or distributor. A vendor holding such permit shall pay the tax monthly to the division at the same time he or she furnishes the required report. Such report shall be filed on or before the 15th day of each month for the sales occurring during the previous calendar month.

Section 876. Paragraph (a) of subsection (1) of section 565.03, Florida Statutes, is amended to read:

565.03 License fees; manufacturers, distributors, brokers, sales agents, and importers.—

(1)(a) Each liquor manufacturer authorized to do business under the Beverage Law shall pay an annual state license tax for each plant or branch he or she operates in the state, as follows:

1. If engaged in the business of distilling spirituous liquors and nothing else, a state license tax of \$4,000.
2. If engaged in the business of rectifying and blending spirituous liquors and nothing else, a state license tax of \$4,000.

Section 877. Section 565.11, Florida Statutes, is amended to read:

565.11 Refilling liquor bottles; misrepresentation; penalty.—Any person who shall reuse or refill with distilled spirituous liquors for the purpose of sale a bottle or other container which has once been used to contain spirituous liquors, or any person who shall willfully misrepresent or permit to be misrepresented the brand of distilled spirits being sold or offered for sale in or from any bottles or containers, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 and, when such person is licensed under this law, be subject to have his or her license revoked by the division. The possession of such a refilled or a mislabeled bottle or other container of spirituous liquors shall be prima facie evidence of the violation of this section.

Section 878. Section 567.09, Florida Statutes, is amended to read:

567.09 Refund of unused portion of county license tax.—The county commissioners of such county voting by election to discontinue permitting the sale of intoxicating liquors, wines, or beer, shall refund to the licensee the fee for the unexpired and unused portion of any such license issued to him or her by said county.

Section 879. Section 567.10, Florida Statutes, is amended to read:

567.10 Refund of unused portion of municipal license tax.—Any municipality in such county voting by election to discontinue permitting the sale of intoxicating liquors, wines, or beer, shall refund to the licensee the fee for the unexpired and unused portion of any such license issued to him or her by said municipality.

Section 880. Section 568.06, Florida Statutes, is amended to read:

568.06 Proof necessary to convict.—In any trial of any person for violation of s. 568.02, it shall not be necessary for the prosecution to prove that the accused had any interest in the intoxicating liquors, wines, or beer delivered or sold by him or her, or any interest in the money received by the accused for such intoxicating liquors, wines, or beer delivered by him or her, but proof of the delivery of intoxicating liquors, wines, or beer by the accused and the receipt of money therefor by him or her, shall be prima facie evidence of the ownership of said intoxicating beverages by the accused and proof of the sale of a single quantity of intoxicating liquors, wines, or beer by such person shall be sufficient evidence upon which to base a conviction for violation of s. 568.02.

Section 881. Subsection (2) of section 568.07, Florida Statutes, is amended to read:

568.07 Name sufficient proof; competency of witness.—

(2) The alcoholic content of any liquor, wine, or beer, or other beverage, may be shown by hydrometer or gravity test made in or away from the presence of the jury by any person who has knowledge of the uses of such instruments, but the production of such evidence shall be optional. The alcoholic content of any liquor or beverage, or compound, which is the subject of any inquiry in any proceedings or prosecution may also be shown by chemical analysis or any other analysis made by and certified by any competent chemist. The sample analyzed may be identified by the sworn testimony of any peace officer or prosecuting officer, that he or she personally delivered to such chemist such sample for analysis and that it was personally taken by him or her from the receptacle containing the beverage, drink, or alcoholic liquor or compound which is the subject of inquiry.

Section 882. Section 568.08, Florida Statutes, is amended to read:

568.08 Person required to testify; exemption from prosecution.—No person shall, upon any investigation before a grand jury or state attorney for an alleged violation of any of the provisions of this chapter, or before any court upon the trial of any person, association of persons, or corporation, charged with the violation of any of the provisions of this chapter herein made a criminal offense, refuse to testify or give evidence, or produce any document, record, book, papers, or any other personal property of any kind or description, upon the ground that by so doing he or she may thereby convict himself or herself of crime, or give evidence against himself or herself, or expose himself or herself to criminal prosecution, penalty or forfeiture; and any person who shall so testify or give such evidence, or produce any such document, record, book, paper, or any other personal property of any kind or description, shall not be prosecuted or held liable for any penalty or forfeiture for or on account of any matter or thing concerning which he or she may so testify, or give evidence, or produce any such document, record, book, paper or any other personal property of any kind or description, and the same shall not be given in evidence or used against such person in anywise or in any manner in any prosecution or other proceeding in any of the courts of this state, or otherwise; provided, that nothing in this section contained shall protect any person against prosecution for perjury or false swearing.

Section 883. Section 568.10, Florida Statutes, is amended to read:

568.10 Confiscation of liquors.—Upon the arrest of any person charged with a violation of any of the provisions of this chapter, the arresting officer shall take into his or her custody all of the intoxicating liquors, wines, or beer found in the possession, custody or control of the person arrested, and safely keep and preserve the same and have it forthcoming at any investigation, prosecution or other proceeding for the violation of any of the provisions of this chapter, and for the destruction of same as is in this section provided. Upon the conviction of the person arrested for the violation of any provision of this chapter, the judge of the court trying the case, after notice to the person convicted and any other person who the judge may be of the opinion is entitled to notice, as the judge may deem reasonable, shall issue to the

sheriff of the county, division, or authorized municipality a written order adjudging and declaring such intoxicating liquors, wines, or beer forfeited and directing the sheriff, division, or authorized municipality to sell the liquors, wines, or beer to any licensed wholesaler in the state upon the condition that the intoxicating liquors, wines, and beer must be first inspected by an employee of the division to ascertain that all state taxes applicable have been paid. Sale shall be made, however, only upon submission by the sheriff, division, or authorized municipality of a request for bids to at least five wholesalers in the state, and the sale shall be made to the highest and best bidder; provided, however, if in the opinion of the sheriff, division, or authorized municipality no satisfactory bid from a wholesaler is received, bids may then be rejected and the intoxicating liquors, wines, or beer so seized and forfeited may be sold to any retailer licensed in this state to sell such beverages provided that the sale shall be made only upon submission by the sheriff, division, or authorized municipality of a request for bids to at least five retail dealers in the state and that the sale shall be made to the highest and best bidder therefor; the order shall further provide, in the event any forfeited liquors, wines, or beer cannot be sold, that the sheriff, division, or authorized municipality shall immediately destroy same or that the sheriff or authorized municipality shall deliver same to the division for the disposition as provided in s. 562.44. In the event that the liquors, wines, or beer are to be destroyed under the order, the destruction by the sheriff or authorized municipality shall be in the presence of the clerk of the circuit court of the county and at times, places and in the manner as the judge, in his or her order, directs.

Section 884. Paragraph (b) of subsection (2) of section 569.003, Florida Statutes, is amended to read:

569.003 Retail tobacco products dealer permits; application; qualifications; fees; renewal; duplicates.—

(2)

(b) The division may refuse to issue a permit to any person, firm, association, or corporation the permit of which has been revoked, to any corporation an officer of which has had his or her permit revoked, or to any person who is or has been an officer of a corporation the permit of which has been revoked. Any permit issued to a firm, association, or corporation prohibited from obtaining a permit under this section shall be revoked by the division.

Section 885. Subsection (24) 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:

(24) To promulgate rules pertaining to the inspection of quality, the truthful and honest branding of each package shipped, and the prohibiting of any shipper having the benefit of shipping through the facilities of the department who does not strictly observe and obey such rules in the preparation, packing, and shipping of his or her agricultural products.

Section 886. Subsections (5) and (6) of section 570.0705, Florida Statutes, are amended to read:

570.0705 Advisory committees.—From time to time the commissioner may appoint any advisory committee to assist the department with its duties and responsibilities.

(5) The advisory committee shall meet at least annually and elect a chair ~~chairman~~, a vice chair ~~chairman~~, and a secretary for 1-year terms.

(6) Each advisory committee shall meet at the call of its chair ~~chairman~~, at the request of a majority of its membership, at the request of the department, or at the times prescribed by its rules of procedure.

Section 887. Subsection (4) of section 570.10, Florida Statutes, is amended to read:

570.10 Counsel.—

(4) Counsel shall act as counsel for any officer of the department in the conduct of a hearing, investigation, or inquiry executed under authority of the department or as provided in this chapter; advise any officer of the department, when so requested, in regard to all matters in connection with his or her powers and duties; and perform generally all duties and services as counsel of the department which may be reasonably required of them.

Section 888. Section 570.11, Florida Statutes, is amended to read:

570.11 Directors; oath of office.—Before entering upon the duties of his or her office, each director of the department shall take and subscribe to the same oath of office as required of state officers by s. 5, Art. II of the Florida Constitution, and give bond with good security to be approved by the Governor; in the sum of \$10,000, conditioned upon the faithful discharge of the duties of his or her office. Such oath shall be filed with the Department of State.

Section 889. Subsection (3) of section 570.15, Florida Statutes, is amended to read:

570.15 Access to places of business and vehicles.—

(3) Every law enforcement officer is authorized to assist employees of the department in the enforcement of this section. Every law enforcement officer is authorized to stop and detain any vehicle and its driver if the driver has failed to comply with this section until an employee of the department arrives to conduct the inspection required or permitted by law. The law enforcement officer may require the driver to return with the ~~his~~ vehicle to the agricultural inspection station where the driver failed to stop the vehicle for inspection.

Section 890. Section 570.16, Florida Statutes, is amended to read:

570.16 Interference with department employees in performance of duties.—No person shall attempt, by means of any threat or violence, to deter

or prevent an inspector, agent, or other employee of the department from performing any duties imposed by law upon him or her or the department. Whoever violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 891. Section 570.22, Florida Statutes, is amended to read:

570.22 Service of process.—Process against the department shall be served on the commissioner or in the commissioner's ~~his~~ absence, on the assistant commissioner.

Section 892. Paragraph (e) of subsection (1) of section 570.23, Florida Statutes, is amended to read:

570.23 State Agricultural Advisory Council.—

(1) COMPOSITION.—The State Agricultural Advisory Council is hereby created in the department.

(e) An alternate member shall have all the rights, privileges, and powers of the member for whom he or she is the alternate when that member is absent from this council or any other council to which the member is appointed by designation of his or her position on this council.

Section 893. Subsection (8) of section 570.244, Florida Statutes, is amended to read:

570.244 Department of Agriculture and Consumer Services; powers and duties.—For the accomplishment of the purposes specified in this act, the department shall have all powers and duties necessary, including, but not limited to, the power and duty to:

(8) On or before November 1 of each year, submit an annual report to the chairs ~~chairmen~~ of the House of Representatives and Senate committees on agriculture. The annual report shall include, but not be limited to:

(a) A list of all projects that received assistance during the previous fiscal year, the needs each project was designed to address, the type of assistance provided, and the benefits derived from the assistance.

(b) The business plans of projects receiving assistance, including the proposed schedule for repayment of funds by assisted agribusinesses.

Section 894. Paragraph (a) of subsection (1) of section 570.248, Florida Statutes, is amended to read:

570.248 Agricultural Economic Development Project Review Committee; powers and duties.—

(1) There is created an Agricultural Economic Development Project Review Committee consisting of five members appointed by the commissioner. The members shall be appointed based upon the recommendations submitted by each entity represented on the committee and shall include:

(a) The commissioner or the commissioner's his designee.

Section 895. Paragraph (a) of subsection (1) of section 570.34, Florida Statutes, is amended to read:

570.34 Plant Industry Technical Council.—

(1) COMPOSITION.—The Plant Industry Technical Council is hereby created in the department and shall be composed of 11 members as follows:

(a) The citrus, vegetable, ornamental horticulture, foliage plants, tropical fruits, commercial flower grower, turfgrass, forestry, apiary, and citizen-at-large representatives who serve on the State Agricultural Advisory Council and one additional representative from the citrus fruit industry who shall be appointed by the commissioner for a 4-year term or until his or her successor is duly qualified and appointed.

Section 896. Paragraph (c) of subsection (3) of section 570.381, Florida Statutes, is amended to read:

570.381 Appaloosa racing; breeders' awards; Appaloosa Advisory Council; horse registration fees; Florida Appaloosa Racing Promotion Fund.—

(3) APPALOOSA ADVISORY COUNCIL.—

(c) At the first organizational meeting of the council, there shall be elected a chair ~~chairman~~ from the membership, and each 2 years thereafter the council shall elect a chair ~~chairman~~ from its then-constituted membership. The member representing the Department of Agriculture and Consumer Services shall be secretary of the council.

Section 897. Paragraph (c) of subsection (3) of section 570.382, Florida Statutes, is amended to read:

570.382 Arabian horse racing; breeders' and stallion awards; Arabian Horse Council; horse registration fees; Florida Arabian Horse Racing Promotion Fund.—

(3) ARABIAN HORSE COUNCIL.—

(c) At the first organizational meeting of the council, there shall be elected a chair ~~chairman~~ from the membership, and each 2 years thereafter the council shall elect a chair ~~chairman~~ from its then-constituted membership. The member representing the Department of Agriculture and Consumer Services shall be secretary of the council.

Section 898. Subsection (2) of section 570.543, Florida Statutes, is amended to read:

570.543 Florida Consumers' Council.—The Florida Consumers' Council in the department is created to advise and assist the department in carrying out its duties.

(2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS; COMPENSATION.—The meetings, powers and duties, procedures, and re-

cordkeeping of the Florida Consumers' Council, and per diem and reimbursement of expenses of council members, shall be governed by the provisions of s. 570.0705 relating to advisory committees established within the department. The council members or ~~chair~~ chairman may call no more than two meetings.

Section 899. Section 570.545, Florida Statutes, is amended to read:

570.545 Unsolicited goods; no obligation on part of recipient.—When unsolicited goods are delivered to a person, the person he may refuse delivery of the goods, or, if the goods are delivered, the person is not obligated to return the goods to the sender. If unsolicited goods are either addressed to or intended for the recipient, they shall be deemed a gift and the recipient may use or dispose of them in any manner without obligation to the sender.

Section 900. Section 571.06, Florida Statutes, is amended to read:

571.06 License; application, fee, and conditions.—

(1) Application for license to reproduce or use a seal of quality shall be made to the department on application forms supplied by the department. Anyone making application and payment of license fee in the amount of \$10 and meeting other qualifications required under this part and rules adopted hereunder shall be granted license for which applied. Such license shall be valid for 1 year from date of issue. The department, however, may refuse to issue a license to any person whose license has been revoked until such person demonstrates to the department that he or she no longer will violate the provisions of this part or rules adopted hereunder.

(2) Issue of license shall be conditioned upon the applicant's satisfying the department that he or she has an adequate bookkeeping system, that he or she keeps and will keep at all times all records necessary to indicate accurately the total volume of agricultural products on which the seal of quality has been used, that such records shall be open at all times for periodic inspection and examination by auditors of the department. The volume and kind of agricultural products on which the seal of quality has been used shall be reported monthly, quarterly, semiannually, or annually as prescribed by rule of the department and such report shall be made with remittance of the advertising and promotion fee applicable not later than the 20th day of the month following the period covered by the report. The report shall be made under oath and on forms furnished by the department. If the report is not filed and advertising and promotion fee paid on the date due or if the report be false, the amount of fee due is subject to a penalty of 10 percent, which shall be added to the advertising and promotion fee and paid therewith.

Section 901. Subsection (6) of section 573.103, Florida Statutes, is amended to read:

573.103 Definitions.—As used in ss. 573.101-573.124:

(6) "Distributor" means any person who engages in the operation of selling, marketing, or distributing, in the primary channel of trade, agricultural

commodities which the person he has produced, or purchased or acquired from a producer, or is marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise, but shall not include a retailer as herein defined.

Section 902. Paragraphs (b) and (d) of subsection (2) and subsections (3) and (5) of section 573.112, Florida Statutes, are amended to read:

573.112 Advisory council.—

(2) Each appointment to the council shall be made by the department in the following manner:

(b) Immediately after their appointment, the members of the council shall meet and organize by the election of a chair ~~chairman~~ and a vice chair ~~chairman~~, whose terms shall be for 1 year.

(d) For the terms following the term in which the order becomes effective, the council, by its chair ~~chairman~~, secretary, or manager, shall submit a report of nominations to the department by June 1.

(3) An alternate member of the council shall, in the absence of the member for whom he or she is the alternate, sit in the place and stead of said member; and in such event, the alternate shall have all the rights, privileges, and powers of the member for whom he or she is the alternate.

(5) The council shall meet at the call of its chair ~~chairman~~, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules.

Section 903. Section 573.122, Florida Statutes, is amended to read:

573.122 Inspections.—Any authorized inspector or other authorized person discharging his or her duties in the checking of compliance with the provisions of any marketing order may enter and inspect any premises, enclosure, building, or conveyance where he or she has reason to believe any agricultural commodities subject to a marketing order are produced, stored, being prepared for market, or marketed and may inspect or cause to be inspected the representative samples of the commodities as may be necessary to determine whether or not any lot of agricultural commodities is in compliance with applicable regulations of any marketing order.

Section 904. Subsection (5) and paragraph (b) of subsection (8) of section 573.124, Florida Statutes, are amended to read:

573.124 Penalties; violation; hearings.—

(5) Any prosecuting attorney of this state having jurisdiction may, upon his or her own initiative, and shall, upon complaint of any person, bring an action in the name of the state in any court of competent jurisdiction within the state against any person violating any provision of ss. 573.101-573.124, any marketing order duly issued by the department, or any marketing agreement enforced by the department.

(8) It shall be a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for:

(b) Any person engaged in the handling of any agricultural commodity or in the wholesale or retail trade thereof to fail or refuse to furnish to the department or its duly authorized agents, upon request, information concerning the name and address of the persons from whom he or she has received any agricultural commodity regulated by a marketing order issued and in effect hereunder, and the quantity of the commodity so received.

Section 905. Section 574.02, Florida Statutes, is amended to read:

574.02 Purpose of act.—The purpose of this act is to enable producers to have sufficient time to properly cure, prepare, and have an adequate time to market their leaf tobacco. Nothing herein shall prohibit a producer from selling his or her tobacco at a private sale at any time. The provisions of this act shall apply only to sales of leaf tobacco produced in the calendar year in which the sale is made.

Section 906. Subsections (2), (3), and (6) of section 574.03, Florida Statutes, are amended to read:

574.03 Warehouseman; licenses and fees.—

(2) Each applicant, with an his application for license, shall remit a license fee based upon total pounds sold during the previous year on the following scale:

- (a) Less than 1,000,000 lbs., \$100;
- (b) 1,000,000 lbs. and less than 2,000,000 lbs., \$200;
- (c) 2,000,000 lbs. and less than 3,000,000 lbs., \$300;
- (d) 3,000,000 lbs. and less than 4,000,000 lbs., \$400;
- (e) 4,000,000 lbs. and less than 5,000,000 lbs., \$500;
- (f) 5,000,000 lbs. and less than 6,000,000 lbs., \$600;
- (g) All in excess of 6,000,000 lbs., \$600 and 6 cents per 1,000 lbs.

(3) A warehouseman not operating a warehouse the previous year may procure a license by paying the license fee based upon the total estimated pounds that the new warehouseman estimates he or she will market during the complete marketing season.

(6) As a prerequisite to the issuance of a license under the provisions of this section, each applicant shall furnish evidence to the Department of Agriculture and Consumer Services that the applicant he has in force a standard fire and extended coverage insurance policy for the full market value of the maximum amount of tobacco contained in his or her sales warehouse at any one time during the marketing season for which the license is sought. The insurance policy shall be written by an insurance

company of the warehouseman's choice authorized to transact business in this state, and such insurance coverage shall be approved in form by the Department of Insurance, and a copy of the insurance policy shall be filed with the director of the Division of Marketing and Development of the Department of Agriculture and Consumer Services. The policy shall contain an endorsement requiring notification to the director of the Division of Marketing and Development of the Department of Agriculture and Consumer Services by the insurance company at least 10 days prior to cancellation of their intention to cancel the policy.

Section 907. Section 574.08, Florida Statutes, is amended to read:

574.08 Accounts of sales; weekly reports.—Each warehouseman of flue-cured tobacco doing business in the state shall keep a correct daily account of the number of pounds of flue-cured tobacco sold by type upon the floor of his or her warehouse during the previous day. On or before Monday of each succeeding week, each warehouseman shall file with the Department of Agriculture and Consumer Services a statement under oath indicating the amount of all flue-cured tobacco sold by type on the floor of his or her warehouse during the previous week. The report made to the department shall be so arranged and classified as to show the number of pounds of tobacco sold for producers by state of origin and the average price per pound, the number of pounds sold for dealers and the average price per pound, the number of pounds sold by the warehouseman for his or her own account, and number of pounds sold for other warehousemen and the average price per pound. In addition thereto, each licensee shall make additional reports as required by law or rules adopted by the department.

Section 908. Subsection (2) of section 574.09, Florida Statutes, is amended to read:

574.09 Department; records; penalty.—

(2) Any warehouseman failing to file the report required by s. 574.08 shall be subject to a penalty of \$100 and, additionally, may be cited to show cause why his or her license should not be suspended or revoked.

Section 909. Subsection (2) of section 574.12, Florida Statutes, is amended to read:

574.12 Tobacco warehouses; charges, fees, penalties.—

(2) The proprietor of each warehouse shall render to each seller of tobacco at his or her warehouse a bill plainly stating the amount charged for weighing and handling, the amounts charged for auction fees, and the amounts charged for commission on each sale.

Section 910. Subsection (2) of section 576.111, Florida Statutes, is amended to read:

576.111 Stop-sale, stop-use, removal, or hold orders.—

(2) Such written or printed notice is notice and warning to all persons, including, but not limited to, the owner or custodian thereof or her or his

agents or employees, to scrupulously refrain from moving, bothering, altering, or interfering with the fertilizer or from altering, defacing, or in anywise interfering with the notice itself or permitting the same to be done.

Section 911. Subsection (3) of section 578.10, Florida Statutes, is amended to read:

578.10 Exemptions.—

(3) No person shall be subject to the criminal penalties of this law for having sold, offered, exposed, or distributed for sale in this state any agricultural, vegetable, or forest tree seed which were incorrectly labeled or represented as to kind and variety or origin, which seed cannot be identified by examination thereof, unless she or he has failed to obtain an invoice or grower's declaration giving kind and variety and origin.

Section 912. Paragraph (b) of subsection (3) of section 578.11, Florida Statutes, is amended to read:

578.11 Duties, authority, and rules and regulations of the department.—

(3) For the purpose of carrying out the provisions of this law, the department, through its authorized agents, is authorized:

(b) To issue and enforce a stop-sale notice or order to the owner or custodian of any lot of agricultural, vegetable, flower, or forest tree seed, which the department finds or has good reason to believe is in violation of any provisions of this law, which shall prohibit further sale, barter, exchange, or distribution of such seed until the department is satisfied that the law has been complied with and has issued a written release or notice to the owner or custodian of such seed. After a stop-sale notice or order has been issued against or attached to any lot of seed and the owner or custodian of such seed has received confirmation that the seed does not comply with this law, she or he shall have 15 days beyond the normal test period within which to comply with the law and obtain a written release of the seed. The provisions of this paragraph shall not be construed as limiting the right of the department to proceed as authorized by other sections of this law.

Section 913. Paragraph (a) of subsection (1) and subsection (2) of section 578.26, Florida Statutes, are amended to read:

578.26 Complaint, investigation, hearings, findings, and recommendation prerequisite to legal action.—

(1)(a) When any farmer is damaged by the failure of agricultural, vegetable, flower, or forest tree seed to produce or perform as represented by the label attached to the seed as required by s. 578.09, as a prerequisite to her or his right to maintain a legal action against the dealer from whom the seed was purchased, the farmer shall make a sworn complaint against the dealer alleging damages sustained. The complaint shall be filed with the department, and a copy of the complaint shall be served by the department on the dealer by certified mail, within such time as to permit inspection of the crops, plants, or trees by the seed investigation and conciliation council or its representatives and by the dealer from whom the seed was purchased.

(2) Within 15 days after receipt of a copy of the complaint, the dealer shall file with the department her or his answer to the complaint and serve a copy of the answer on the farmer by certified mail. Upon receipt of the findings and recommendation of the arbitration council, the department shall transmit them to the farmer and to the dealer by certified mail.

Section 914. Subsections (1) and (3) and paragraphs (b) and (c) of subsection (4) of section 578.27, Florida Statutes, are amended to read:

578.27 Seed investigation and conciliation council; composition; purpose; meetings; duties; expenses.—

(1) The Commissioner of Agriculture shall appoint a seed investigation and conciliation council composed of seven members and seven alternate members, one member and one alternate to be appointed upon the recommendation of each of the following: the deans of extension and research, Institute of Food and Agricultural Sciences, University of Florida; president of the Florida Seedsmen and Garden Supply Association; president of the Florida Farm Bureau Federation; and the president of the Florida Fruit and Vegetable Association. The Commissioner of Agriculture shall appoint a representative and an alternate from the agriculture industry at large and from the Department of Agriculture and Consumer Services. Initially, three members and their alternates shall be appointed for 4-year terms and four members and their alternates shall be appointed for 2-year terms. Thereafter, members and alternates shall be appointed for 4-year terms. Each alternate member shall serve only in the absence of the member for whom she or he is an alternate. A vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment. The council shall annually elect a chair ~~chairman~~ from its membership. It shall be the duty of the chair ~~chairman~~ to conduct all meetings and deliberations held by the council and to direct all other activities of the council. The department representative shall serve as secretary of the council. It shall be the duty of the secretary to keep accurate and correct records on all meetings and deliberations and perform other duties for the council as directed by the chair ~~chairman~~.

(3) The seed investigation and conciliation council may be called into session by the department or upon the direction of the chair ~~chairman~~ to consider matters referred to it by the department.

(4)

(b) In conducting its investigation the seed investigation and conciliation council or any representative, member, or members thereof authorized to examine the farmer on her or his farming operation of which she or he complains and the dealer on her or his packaging, labeling, and selling operation of the seed alleged to be faulty; to grow to production a representative sample of the alleged faulty seed through the facilities of the state, under the supervision of the department when such action is deemed to be necessary; to hold informal hearings at a time and place directed by the department or by the chair ~~chairman~~ of the council upon reasonable notice to the farmer and the dealer.

(c) Any investigation made by less than the whole membership of the council shall be by authority of a written directive by the department or by the ~~chair chairman~~, and such investigation shall be summarized in writing and considered by the council in reporting its findings and making its recommendation.

Section 915. Paragraph (a) of subsection (1) of section 580.041, Florida Statutes, is amended to read:

580.041 Master registration; fee; refusal or cancellation of registration.—

(1)(a) Each distributor of commercial feed must annually obtain a master registration before ~~her~~ or his brands are distributed in this state. The department shall furnish the registration forms requiring the distributor to state that the distributor will comply with all provisions of this chapter and applicable rules. The registration form shall identify the manufacturer's or guarantor's name and place of business and the location of each manufacturing facility in the state and shall be signed by the owner; by a partner, if a partnership; or by an authorized officer or agent, if a corporation. All registrations expire on June 30 of each year.

Section 916. Subsection (19) of section 581.031, Florida Statutes, is amended to read:

581.031 Department; powers and duties.—The department has the following powers and duties:

(19) To demand of any person full information as to the origin and source of plants or plant products or other things likely to carry plant pests, noxious weeds, or arthropods, which the person ~~he~~ has in ~~her~~ or his possession or under ~~her~~ or his control.

Section 917. Section 581.071, Florida Statutes, is amended to read:

581.071 Principal responsible for actions of employees.—In construing and enforcing the provisions of this chapter, the act, omission, or failure of any official or other person acting for or employed by any association, partnership, corporation, or other principal within the scope of ~~her~~ or his employment or office shall in every case be deemed the act, omission, or failure of such association, partnership, corporation, or other principal as well as that of the individual.

Section 918. Section 581.122, Florida Statutes, is amended to read:

581.122 Nursery stock; thefts and trespass.—

(1) It is unlawful for any person, with intent to injure or defraud, to take, carry away, or damage any plant, plant product, or nursery stock contained in any nursery without the consent of the owner of the nursery or ~~her~~ or his agent.

(2) It is unlawful for any person to enter the premises of any nursery whenever the nursery is not open for business, without the written or oral consent of the owner of the nursery or ~~her~~ or his agent.

Section 919. Subsections (1) and (2) of section 581.131, Florida Statutes, are amended to read:

581.131 Certificate of registration.—

(1) Before any nurseryman shall sell or distribute, or offer for sale or for distribution, any nursery stock in this state, she or he shall apply to the director of the division, on forms supplied by the division, for a certificate of registration.

(2) Before any stock dealer, agent, or plant broker shall sell or distribute, or offer for sale or for distribution, any nursery stock in this state, she or he shall apply to the director of the division, on forms supplied by the division, for a certificate of registration for each outlet.

Section 920. Subsection (1) of section 581.141, Florida Statutes, is amended to read:

581.141 Certificate of registration or of inspection; revocation and suspension; fines.—

(1) REVOCATION AND SUSPENSION.—If it is determined by the department that any nurseryman, stock dealer, agent, or plant broker is selling or offering for sale, or is distributing or offering to distribute, nursery stock in violation of the provisions of this chapter and the rules adopted under this chapter, or has aided or abetted in such violation, the department may revoke or suspend her or his certificate of registration or the use of any certificates, permits, or agreements issued by the division. Further, the department may refuse or suspend the certification of any nursery stock or plant product when it is determined that plant pests exist on the stock or product or that the nursery or site is in such condition with regard to growth and cultivation that an efficient inspection for plant pests cannot be made.

Section 921. Section 581.181, Florida Statutes, is amended to read:

581.181 Notice of infection of plants; destruction.—

(1) If the director or her or his authorized representative finds, on examination, any plant or plant product infested or infected with plant pests or noxious weeds, she or he shall notify in writing the owner or person having charge of the premises, and the owner or person in charge shall, within 10 days after the notice, cause the removal and destruction of the infested and infected plant or plant product if it cannot be successfully treated; otherwise, the owner or person in charge shall cause it to be treated as directed in the notice by the director or an authorized representative of the division. No damage shall be awarded to the owner for the destruction of the infested or infected plant or plant product under the provisions of this chapter.

(2) If the owner or person in charge refuses or neglects to comply with the terms of the notice within 10 days after receiving it, the director or her or his authorized representative may, under authority of the department, proceed to treat or destroy the infested or infected plant or plant product. The expense of the treatment or destruction shall be assessed, collected, and enforced against the owner by the department.

Section 922. Paragraphs (d) and (f) of subsection (3) of section 581.185, Florida Statutes, are amended to read:

581.185 Preservation of native flora of Florida.—

(3) PROHIBITIONS; PERMITS.—

(d) Any person transporting for the purpose of sale, selling, or offering for sale any plant listed on the Regulated Plant Index, except for those plants listed as threatened, which is harvested from the person's own property must have a permit from the department in his or her immediate possession when engaged in any of the described activities.

(f) Any person willfully destroying or harvesting; transporting, carrying, or conveying on any public road or highway; or selling or offering for sale any plant listed in the Regulated Plant Index must have a permit, if applicable, and the written permission required by this section in his or her immediate possession at all times when engaged in any of such activities.

Section 923. Paragraphs (c) and (e) of subsection (1) of section 581.211, Florida Statutes, are amended to read:

581.211 Penalties for violations.—

(1) Any person who:

(c) Interferes with or obstructs any director or authorized representative of the department in the performance of her or his duties;

(e) Has in her or his possession unauthorized imported plants or plant products,

commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 924. Section 582.02, Florida Statutes, is amended to read:

582.02 Lands a basic asset of state.—The farm, forest and grazing lands of the state are among the basic assets of the state and the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people; improper land use practices have caused and have contributed to, and are now causing and contributing to a progressively more serious erosion of the farm and grazing lands of this state by fire, wind and water; the breaking of natural grass, plant, and forest cover has interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus, and developing a soil condition that favors erosion; the top soil is being burned, washed and blown out of fields and pastures; there has been an accelerated washing of sloping fields; these processes of erosion by fire, wind and water speed up with removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil; failure by any landowner or occupier to conserve the soil and control erosion upon her or his lands causes destruction by burning, washing and blowing of soil and water from her or his lands onto other lands and

makes the conservation of soil and control erosion of such other lands difficult or impossible.

Section 925. Paragraphs (a) and (b) of subsection (1) of section 582.18, Florida Statutes, are amended to read:

582.18 Election of supervisors of each district.—

(1) The election of supervisors for each soil and water conservation district shall be held every 2 years. The elections shall be held at the time of the general election provided for by s. 100.041. The office of the supervisor of a soil and water conservation district is a nonpartisan office, and candidates for such office are prohibited from campaigning or qualifying for election based on party affiliation.

(a) Each candidate for supervisor for such district shall be nominated by nominating petition subscribed by 25 or more qualified electors of such district. Candidates shall obtain signatures on petition forms prescribed by the Department of State and furnished by the appropriate qualifying officer. In multicounty districts, the appropriate qualifying officer is the Secretary of State; in single-county districts, the appropriate qualifying officer is the supervisor of elections. Such forms may be obtained at any time after the first Tuesday after the first Monday in January preceding the election, but prior to the 21st day preceding the first day of the qualifying period for state office. Each petition shall be submitted, prior to noon of the 21st day preceding the first day of the qualifying period for state office, to the supervisor of elections of the county for which such petition was circulated. The supervisor of elections shall check the signatures on the petition to verify their status as electors in the district. Prior to the first date for qualifying, the supervisor of elections shall determine whether the required single-county signatures have been obtained; and she or he shall so notify the candidate. In the case of a multicounty candidate, the supervisor of elections shall check the signatures on petitions and shall, prior to the first date for qualifying for office, certify to the Department of State the number shown as registered electors of the district. The Department of State shall determine if the required number of signatures has been obtained for multicounty candidates and shall so notify the candidate. If the required number of signatures has been obtained for the name of the candidate to be placed on the ballot, the candidate shall, during the time prescribed for qualifying for office in s. 99.061, submit a copy of the notice to, and file her or his qualification papers with, the qualifying officer and take the oath prescribed in s. 99.021.

(b) Each nominee who collects or expends campaign contributions shall conduct her or his campaign for supervisor of a soil and water conservation district in accordance with the provisions of chapter 106. Candidates who neither receive contributions nor make expenditures, other than expenditures for verification of signatures on petitions, are exempt from the provisions of chapter 106 requiring establishment of bank accounts and appointment of a campaign treasurer, but shall file periodic reports as required by s. 106.07.

Section 926. Subsections (2) and (3) of section 582.19, Florida Statutes, are amended to read:

582.19 Qualifications and tenure of supervisors.—

(2) The supervisors shall designate a ~~chair~~ chairman and may, from time to time, change such designation by majority vote. The term of office of each supervisor shall be 4 years, except that two supervisors shall be elected to serve for initial terms of 2 years, respectively, from the date of their election as provided in this chapter. A supervisor shall hold office until her or his successor has been elected and qualified. The selection of successors to fill an unexpired term shall be in accordance with s. 582.18(2). Selection for a full term in a newly created district shall be by election of the qualified electors of the district. A majority of the supervisors shall constitute a quorum and the concurrence of a majority of the supervisors in any matter within their duties shall be required for its determination. A supervisor shall receive no compensation for her or his services, but she or he shall, with approval of the supervisors of the district, be reimbursed for travel expenses as provided in s. 112.061.

(3) The supervisors may utilize the services of the county agricultural agents and the facilities of the county agricultural agents' offices insofar as practicable and feasible and may employ such additional employees and agents, permanent and temporary, as they may require, and determine their qualifications, duties and compensation. The supervisors may delegate to their ~~chair~~ chairman, to one or more supervisors, or to one or more agents, or employees such powers and duties as they may deem proper. The supervisors shall furnish to the Department of Agriculture and Consumer Services, upon request, copies of such rules, regulations, orders, contracts, forms and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this chapter.

Section 927. Subsection (1) of section 582.23, Florida Statutes, is amended to read:

582.23 Performance of work under the regulations by the supervisors.—

(1) The supervisors may go upon any lands within the district to determine whether land use regulations adopted are being observed. Where the supervisors of any district shall find that any of the provisions of land use regulations adopted are not being observed on particular lands, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, the supervisors may present to the circuit court for the county or counties within which the lands of the defendant may lie, a petition, duly verified, setting forth the adoption of the land use regulations, the failure of the defendant landowner or occupier to observe such regulations, and to perform particular work, operations, or avoidances as required thereby, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, and praying the court to require the defendant to perform the work, operations, or avoidances within a reasonable time and to order that

if the defendant shall fail so to perform the supervisors may go on the land, perform the work or other operations or otherwise bring the condition of such lands into conformity with the requirements of such regulations, and recover the costs and expenses thereof, with interest, from the owner of such land. Upon the presentation of such petition the court shall cause process to be issued against the defendant, and shall hear the case. If it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a special master to take such evidence as it may direct and report the same to the court within her or his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.

Section 928. Section 582.25, Florida Statutes, is amended to read:

582.25 Rules of procedure of board.—The board of adjustment shall adopt rules to govern its procedures, which rules shall be in accordance with the provisions of this chapter and with the provisions of any ordinance adopted pursuant to this chapter. The board shall designate a chair ~~chairman~~ from among its members, and may, from time to time, change such designation. Meetings of the board shall be held at the call of the chair ~~chairman~~ and at such other times as the board may determine. Any three members of the board shall constitute a quorum. The chair ~~chairman~~, or in her or his absence such other member of the board as she or he may designate to serve as acting chair ~~chairman~~, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep a full and accurate record of all proceedings and of all documents filed in its office, which shall be a public record.

Section 929. Section 582.26, Florida Statutes, is amended to read:

582.26 Petition to board to vary from regulations.—Any landowner or occupier may file a petition with the board of adjustment alleging that there are great practical difficulties or unnecessary hardship in the way of her or his carrying out upon her or his lands the strict letter of the land use regulations prescribed by ordinance approved by the supervisors and praying the board to authorize a variance from the terms of the land use regulations in the application of such regulations to the lands occupied by the petitioner. Copies of such petition shall be filed by the petitioner with the Department of Agriculture and Consumer Services. The Department of Agriculture and Consumer Services shall have the right to appear and be heard at such hearing. Any owner or occupier of lands lying within the district who shall object to the authorizing of the variance prayed for may intervene and become a party to the proceedings. If the board shall determine that there are great practical difficulties or unnecessary hardship in the way of applying the strict letter of any of the land use regulations upon the lands of the petitioner, it shall have power by order to authorize such variance from the terms of the land use regulations, in their application to the lands of the petitioner, as will relieve such great practical difficulties or unnecessary hardship and will not be contrary to the public interest, and such that the spirit of the land use regulations shall be observed, the public health, safety, and welfare secured, and substantial justice done.

Section 930. Section 582.41, Florida Statutes, is amended to read:

582.41 Board of directors of district.—

(1) Petitions to nominate candidates for directors of the watershed improvement district may be filed with the board of supervisors of the soil and water conservation district in which the watershed improvement district is situated. No such nominating petition shall be accepted by the board unless it is signed by at least 10 owners of land lying within the watershed improvement district or by a majority of such owners if there be less than 10. Such owners may sign more than one nominating petition to nominate more than one candidate for director. No person shall be eligible to be a director unless she or he is an owner of land within the watershed improvement district in which she or he seeks election.

(2) Within 30 days after a watershed improvement district is established, the board of supervisors of the soil and water conservation district in which the watershed improvement district is situated, or the joint board if more than one district is affected, shall cause an election to be held for the election of a board of three directors of the watershed improvement district. Due notice of such election shall be given by the board to supervisors. At such election each owner of land lying within the watershed improvement district shall be entitled to cast one vote, in person or by proxy, for each acre or fractional part thereof of land within the watershed improvement district belonging to such owner, except that only one vote may be cast for each such acre or fractional part thereof regardless of whether the legal title thereto is held in single or multiple ownership. The three persons receiving the highest number of votes shall be declared elected as directors. The first board of directors shall determine by lot from among its membership one member to serve a term of 3 years, one member to serve a term of 2 years, and one member to serve a term of 1 year; thereafter, as these initial terms expire, the members of the board of directors shall be elected for terms of 3 years. Vacancies occurring before the expiration of a term shall be filled for the unexpired term by appointment by the remaining members of the board of directors with the approval of the board of supervisors. The board of directors shall, under the supervision of the board of supervisors, be the governing body of the watershed improvement district. The board of directors shall annually elect from its membership a chair ~~chairman~~ and vice chair ~~chairman~~.

(3) A director shall receive compensation for her or his service at the rate of \$10 per day for those days on which she or he renders services pursuant to this chapter. A director shall also be entitled to expenses in the same amount and extent as provided for public officers and employees of the state in s. 112.061.

Section 931. Section 582.44, Florida Statutes, is amended to read:

582.44 Levy of taxes; procedure, etc.—The board of directors of a district is authorized to levy annually a uniform ad valorem tax on all taxable property in the district as determined for county taxing purposes, not to exceed the amount necessary to provide the funds necessary for the purpose of maintaining, operating, and administering such district and obtaining

necessary rights-of-way for the works of the district; however, such tax shall not exceed the rate of 3 mills on the dollar of the assessed value of such property or such rate approved by the qualified electors of the district pursuant to s. 582.36. The district shall be deemed a district within the purview of former ss. 193.03 and 193.031, whether within the purview and intention of such sections or not, for the purposes of the assessment, collection, and distribution of the taxes herein provided for. Upon the equalization of the county tax rolls, the governing board of the district shall be furnished with the same information furnished by the property appraiser to the taxing authorities of the county and taxing districts for use in determining the millages to be imposed by them. Upon the determination by the board of the taxing district of the millages to be imposed by it, it shall forthwith notify the boards of county commissioners of the counties wherein the district lies, who shall include such millages in their directives to the property appraisers. Upon receipt of these millages, the property appraisers shall impose and assess such taxes in the usual manner, to be collected and distributed in the usual manner. For purposes of taxation, the district shall be treated as a taxing district. Such district tax assessments shall be liens against the properties assessed as is provided for in s. 197.122. The taxes of the district, when distributed in the usual manner, shall be paid into the depository of the district to the credit of the district to be expended in the usual manner for like district. Expenditures from such funds shall be made with the approval of the board of supervisors of the soil and water conservation district or districts in which the watershed improvement district is situated on requisition by the chair ~~chairman~~ or vice chair ~~chairman~~ of the board of directors of the watershed improvement district.

Section 932. Section 585.006, Florida Statutes, is amended to read:

585.006 Interference with department employees.—Any person who forcibly assaults, resists, opposes, prevents, impedes, or interferes with a duly authorized inspector or representative of the department in the execution of his or her duties under this chapter shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 933. Section 585.09, Florida Statutes, is amended to read:

585.09 Procedure for condemnation of animals and property by department.—Condemnation and destruction of animals, barns, yards, sheds, corrals, and pens, as provided in s. 585.08, shall take place only after a fair appraisal of the value of the property. The value shall be determined by the department and the owner; provided, however, should the department and the owner be unable to agree on a value, the value shall then be determined by three disinterested appraisers, one to be appointed by the department, one by the owner of the property, and the third to be selected by these two. The appraised price, subject to the provisions of s. 585.10, shall be paid by the department as other expenses are paid. If the owner of such animal, barn, yard, shed, corral, or pen fails or refuses to name an appraiser within 5 days after requested by the department to do so, or refuses to permit the property to be condemned and destroyed, the department may make an order to the sheriff of the county wherein the property lies, directing her or him to destroy such animal, barn, yard, shed, corral, or pen, in the manner

to be prescribed in the order. The order shall be immediately executed by the sheriff. Upon the destruction of the property by the sheriff, the department shall have the right to recover, from the owner of the property destroyed, all costs and expenses incurred by it in connection with the destruction.

Section 934. Section 585.50, Florida Statutes, is amended to read:

585.50 Garbage feeding prohibited unless sterilized.—It shall be unlawful for any person to feed garbage to animals unless such garbage has been heated, cooked, treated, or processed under such temperature, pressure, process, or method, and for such a period of time, as is necessary to render the same free of any contagious, infectious, or communicable disease which might affect either the animals of this state or the citizens of this state. The department is authorized to promulgate rules covering the method of heating, cooking, treating, or processing, and to prescribe the temperature and time for such heating, cooking, treating, and processing as may be determined by scientific research. The requirements of ss. 585.48-585.59 shall not apply to an individual who feeds her or his own animals only the garbage from her or his own household.

Section 935. Section 585.53, Florida Statutes, is amended to read:

585.53 Permit revocation.—Every permitted feeder of garbage who shall violate this chapter or the rules promulgated by the department pursuant thereto shall have her or his permit revoked, canceled, or suspended.

Section 936. Subsection (5) of section 585.83, Florida Statutes, is amended to read:

585.83 Inspection service; prohibition against gifts.—

(5) It is unlawful for any representative of an establishment to give or offer to give, directly or indirectly, to any employee of the department, anything of value, monetary or otherwise, with intent to influence such employee in the discharge of her or his duties under this part.

Section 937. Paragraphs (a), (b), and (c) of subsection (1) of section 585.88, Florida Statutes, are amended to read:

585.88 Exemptions.—

(1) The provision of this part requiring inspection of the slaughter of animals and the preparation of animal products at establishments conducting such operations for intrastate commerce shall not apply to:

(a) The slaughtering by any person of animals which he or she has raised, and his or her preparation and transportation of the product of such animals for his or her exclusive use, as well as for the use of the members of his or her household and nonpaying guests and employees.

(b) The custom slaughter by any person of animals delivered by the owner, and the preparation by the slaughterer and transportation of the

product of such animals, for the exclusive use of the owner and members of his or her household and nonpaying guests and employees.

(c) The custom preparation by any person of animal products derived from the slaughter by any person of animals which he or she has raised, or from game animals, delivered by the owner for such custom preparation, and transportation of such custom-prepared products, exclusively for use by the owner and members of his or her household and nonpaying guests and employees. All such custom slaughtering or custom processing as provided for in paragraph (b) or this paragraph shall operate under department supervision pursuant to s. 585.91. The operations at any officially inspected or custom establishment shall be exempt from the inspection requirements which the department is hereby authorized to promulgate to ensure that any animal products, wherever handled on a custom basis, or any containers or packages containing such products, are separated at all times from products prepared for sale, and that all such products prepared on a custom basis, or any containers or packages containing such products, are plainly marked "Not For Sale" immediately after being prepared, and kept so identified until delivered to the owner.

Section 938. Subsection (4) of section 585.90, Florida Statutes, is amended to read:

585.90 Inspections, stop-sale orders, condemnation, and destruction of animal products.—

(4) If the court finds that the detained animal product is in violation of this part, the product shall, after entry of the decree, be destroyed at the expense of the claimant under the supervision of the department. All court costs, fees, storage, and other proper expenses shall be levied against the claimant of such product or his or her agent. However, if the violation can be corrected by proper labeling of the product and after costs, fees, and expenses have been paid, the court may order that the product be delivered to the claimant for proper labeling under the supervision of the department. The expense of the supervision shall be paid by the claimant.

Section 939. Subsection (14) of section 586.02, Florida Statutes, is amended to read:

586.02 Definitions.—As used in this chapter:

(14) "Unwanted race of honeybees" means those natural, genetically isolated subspecies of honeybees which beyond a reasonable doubt can inflict damage to people ~~man~~ or animals greater than managed or feral honeybees commonly utilized in North America.

Section 940. Subsection (1) of section 586.03, Florida Statutes, is amended to read:

586.03 Certification and labeling of Florida-produced honey.—

(1) Any beekeeper or his or her representative managing honeybees in this state may make application to the department for inspection and sam-

ple analysis on which qualification for “certified honey,” or for special certification, shall be based.

Section 941. Subsection (15) of section 586.10, Florida Statutes, is amended to read:

586.10 Powers and duties of department.—The department shall have the powers and duties to:

(15) If the department determines that a beekeeper or honeybee product processor is selling or offering for sale or is distributing or offering to distribute honeybees, honeybee products, or beekeeping equipment in violation of this chapter or rules adopted under this chapter, or has aided or abetted in the violation, the department may revoke or suspend her or his certificate of inspection or the use of any certificate or permit issued by the department.

Section 942. Paragraph (a) of subsection (2) of section 586.11, Florida Statutes, is amended to read:

586.11 Certificate of inspection to accompany interstate shipments; enforcement.—

(2)(a) The certificate shall certify that the apiaries owned or operated by the beekeeper or his or her agents or representatives have been inspected annually in the state of origin at a time when the bees are actively rearing brood, and that the honeybees meet the entry requirements of the department concerning honeybee pests and unwanted races of honeybees.

Section 943. Section 588.07, Florida Statutes, is amended to read:

588.07 Prohibition against stakes.—No planter or other person not having a lawful fence shall fix or cause to be fixed in any of his or her enclosures, any canes or stakes or anything that shall or may kill or maim, hurt, or destroy any cattle, horses, sheep, goat, or swine, under penalty of \$10 for every such offense, to be recovered before the proper court; one-half of the penalty thereof shall go to the informer and the other half to the county.

Section 944. Section 588.16, Florida Statutes, is amended to read:

588.16 Authority to impound livestock running at large or strays.—It shall be the duty of the sheriff or her or his deputies or any other law enforcement officer of the county, the county animal control center, or state highway patrol officers ~~patrolmen~~, where livestock is found to be running at large or straying, to take up, confine, hold, and impound any such livestock, to be disposed of as hereinafter provided.

Section 945. Subsection (1) of section 588.17, Florida Statutes, is amended to read:

588.17 Disposition of impounded livestock.—

(1) Upon the impounding of any livestock by the sheriff or his or her deputies or any other law enforcement officers of the county, the county animal control center, or state highway patrol officers ~~patrolmen~~, the sheriff

shall forthwith serve written notice upon the owner, advising such owner of the location or place where the livestock is being held and impounded, of the amount due by reason of such impounding, and that unless such livestock be redeemed within 3 days from date thereof that the same shall be offered for sale.

Section 946. Section 588.19, Florida Statutes, is amended to read:

588.19 Failure to secure purchaser or insufficient funds to defray certain costs.—If there be no bidder for such livestock at the sale aforesaid, the sheriff shall either offer the livestock for adoption or kill, or cause to be killed, the same and shall dispose of the carcass thereof; if there be any money received by him or her on account of the said disposal, the same shall be disbursed in the manner hereinafter provided; and, if there be no ready sale for said carcass, the sheriff shall forthwith deliver the carcass to a public institution of the county, state, or municipality within said county or to any private charitable institution, in the order herein set forth, according to their needs.

Section 947. Subsections (1) and (2) of section 588.20, Florida Statutes, are amended to read:

588.20 Report of sale and disposition of proceeds.—

(1) The sheriff, upon making a sale or other disposal as herein provided, shall forthwith make a written return thereof to the clerk of the circuit court of such county, with a full and accurate description of the livestock sold or disposed of by her or him, to whom, and the sale price thereof, which report shall be filed by said clerk.

(2) At the time of making her or his return the sheriff shall pay over to the clerk of the circuit court the entire proceeds of the sale.

Section 948. Subsection (3) of section 589.01, Florida Statutes, is amended to read:

589.01 Florida Forestry Council.—The Florida Forestry Council, hereinafter called the “council,” is hereby created in the Division of Forestry of the Department of Agriculture and Consumer Services. The council shall be composed of five members appointed by the Department of Agriculture and Consumer Services for terms of 4 years.

(3) The council shall meet at the call of its chair ~~chairman~~, at the request of a majority of its membership or of the Department of Agriculture and Consumer Services, or at such times as may be prescribed by its rules.

Section 949. Section 589.02, Florida Statutes, is amended to read:

589.02 Headquarters and meetings of council.—The official headquarters of the council shall be in Tallahassee, but it may hold meetings at such other places in the state as it may determine by resolutions or as may be selected by a majority of the members of the council in any call for a meeting. The annual meeting of the council shall be held on the first Monday in

October of each year. Special meetings may be called at any time by the ~~chair chairman~~ or upon the written request of a majority of the members. The council shall annually elect from its members a chair chairman, a vice chair chairman, and a secretary. The election shall be held at the annual meeting of the council. A majority of the members of the council shall constitute a quorum for such purposes.

Section 950. Section 589.06, Florida Statutes, is amended to read:

589.06 Warrants for payment of accounts.—Upon the presentation to the Comptroller of any accounts duly approved by the Division of Forestry, accompanied by such itemized vouchers or accounts as shall be required by her or him, the Comptroller shall audit the same and draw a warrant on the State Treasurer for the amount for which the account is audited, payable out of funds to the credit of the division.

Section 951. Section 589.30, Florida Statutes, is amended to read:

589.30 Duty of district forester.—It shall be the duty of the district forester to direct all work in accordance with the law and regulations of the Division of Forestry; gather and disseminate information in the management of commercial timber, including establishment, protection and utilization; and assist in the development and use of forest lands for outdoor recreation, watershed protection, and wildlife habitat. The district forester or his or her representative shall provide encouragement and technical assistance to individuals and urban and county officials in the planning, establishment, and management of trees and plant associations to enhance the beauty of the urban and suburban environment and meet outdoor recreational needs.

Section 952. Section 589.32, Florida Statutes, is amended to read:

589.32 Cost of providing county forestry assistance.—The cost of county forestry assistance provided under the provisions of ss. 589.28-589.34 shall be jointly determined and paid by the Division of Forestry and the county commission or municipality and shall be not less than 40 percent of the cost of the equivalent of 1 person-year ~~man-year~~ of assistance. However, the county or municipality share shall not exceed the sum of \$3,000 per annum for each person-year ~~man-year~~ of assistance provided.

Section 953. Section 589.33, Florida Statutes, is amended to read:

589.33 Expenditure of budgeted funds.—Any money budgeted for a fiscal period shall be expended by the Division of Forestry during the period for which it was budgeted and amounts not expended or specifically obligated by contract or other legal procedure during that period shall be available for the next fiscal period or shall be returned to the Division of Forestry and the county or municipality in the same proportions as appropriated. However, when 40 percent of the cost of 1 person-year ~~man-year~~ of assistance equals or exceeds \$3,000, then in that event all budget balance will revert to the Division of Forestry.

Section 954. Paragraph (b) of subsection (5) of section 590.026, Florida Statutes, is amended to read:

590.026 Prescribed burning; requirements; liability.—

(5) REQUIREMENTS; LIABILITY.—

(b) No property owner or his or her agent, conducting a prescribed burn pursuant to the requirements of this subsection, shall be liable for damage or injury caused by fire or resulting smoke, unless negligence is proven.

Section 955. Subsections (1) and (2) of section 590.082, Florida Statutes, are amended to read:

590.082 Extraordinary fire hazard; certain acts made unlawful; proclamations by the Governor.—

(1) When the Governor has by proclamation declared a drought emergency to exist and described the general boundaries of the area affected as prescribed in s. 590.081 and the drought emergency continues until the forest, grass, woods, wild lands, fields, or marshes become so dry or parched as to create an extraordinary fire hazard endangering life and property, it shall be unlawful for any person, except the owner or his or her agents or other persons regularly engaged in harvesting, processing, or moving forest or farm products, to enter or travel in any public or private forest lands, grasslands, woods, fields, or marshes within the area described by proclamation, except on public roads or highways or on well-defined private roads. Further, it shall be unlawful for any person to carry on any nonessential activities during such periods in the area affected.

(2) The Commissioner of Agriculture, upon the advice of the director of the Division of Forestry, will, with the consent of the ~~chair~~ chairman of the board of county commissioners of the affected county or counties, advise the Governor when forests, grass, woods, wild lands, fields, or marshes in any county, counties, or area within a county of this state, because of prolonged emergency drought conditions, become so dry or parched as to create an extraordinary fire hazard endangering life or property. The Governor may by proclamation declare an extraordinary fire hazard to exist and describe the general boundaries of the area affected.

Section 956. Paragraph (b) of subsection (1) of section 590.12, Florida Statutes, is amended to read:

590.12 Unlawful burning prohibited; penalty.—

(1) It is unlawful for any person:

(b) To fail to provide adequate fire lines, personnel ~~manpower~~, and fire-fighting equipment for the control of such fire;

However, no authorization shall be required for the setting of a fire in a forest protection district when written permission to set such fire has been obtained from a duly appointed fire warden.

Section 957. Subsection (1) of section 590.29, Florida Statutes, is amended to read:

590.29 Illegal possession of incendiary device.—

(1) Whoever, being outside the corporate limits of any municipality, has in his or her possession any incendiary device as defined by subsection (3) with the intent to use such device for the purpose of burning or setting fire to any forest, grass, or woodland, if such person is not the owner of, nor, as under a lease, in lawful possession of, the forest, grass, or woodland, shall, upon conviction thereof, be deemed guilty of a felony and punished as provided in s. 590.30.

Section 958. Section 590.31, Florida Statutes, is amended to read:

590.31 Southeastern Interstate Forest Fire Protection Compact.—The Governor on behalf of this state is hereby authorized to execute a compact, in substantially the following form, with any one or more of the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, and the Legislature hereby signifies in advance its approval and ratification of such compact:

SOUTHEASTERN INTERSTATE FOREST
FIRE PROTECTION COMPACT

ARTICLE I

The purpose of this compact is to promote effective prevention and control of forest fires in the southeastern region of the United States by the development of integrated forest fire plans, by the maintenance of adequate forest firefighting services by the member states, by providing for mutual aid in fighting forest fires among the compacting states of the region and with states which are party to other regional forest fire protection compacts or agreements, and for more adequate forest protection.

ARTICLE II

This compact shall become operative immediately, as to those states ratifying it whenever any two or more of the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, which are contiguous have ratified it and congress has given consent thereto. Any state not mentioned in this article which is contiguous with any member state may become a party to this compact, subject to approval by the legislature of each of the member states.

ARTICLE III

In each state, the state forester or officer holding the equivalent position who is responsible for forest fire control shall act as compact administrator for that state and shall consult with like officials of the other member states and shall implement cooperation between such states in forest fire prevention and control.

The compact administrators of the member states shall coordinate the services of the member states and provide administrative integration in carrying out the purposes of this compact.

There shall be established an advisory committee of legislators, forestry commission representatives, and forestry or forest products industries rep-

representatives which shall meet from time to time with the compact administrators. Each member state shall name one member of the senate and one member of the house of representatives who shall be designated by that state's commission on interstate cooperation, or if said commission cannot constitutionally designate the said members, they shall be designated in accordance with laws of that state; and the governor of each member state shall appoint two representatives, one of whom shall be associated with forestry or forest products industries to comprise the membership of the advisory committee. Action shall be taken by a majority of the compacting states, and each state shall be entitled to one vote.

The compact administrators shall formulate and, in accordance with need, from time to time, revise a regional forest fire plan for the member states.

It shall be the duty of each member state to formulate and put in effect a forest fire plan for that state and take such measures as may be necessary to integrate such forest fire plan with the regional forest fire plan formulated by the compact administrators.

ARTICLE IV

Whenever the state forest fire control agency of a member state requests aid from the state forest fire control agency of any other member state in combating, controlling or preventing forest fires, it shall be the duty of the state forest fire control agency of that state to render all possible aid to the requesting agency which is consonant with the maintenance of protection at home.

ARTICLE V

Whenever the forces of any member state are rendering outside aid pursuant to the request of another member state under this compact, the employees of such state shall, under the direction of the officers of the state to which they are rendering aid, have the same powers (except the power of arrest), duties, rights, privileges and immunities as comparable employees of the state to which they are rendering aid.

No member state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on the part of such forces while so engaged, or on account of the maintenance, or use of any equipment or supplies in connection therewith; provided, that nothing herein shall be construed as relieving any person from liability for his or her own negligent act or omission or as imposing liability for such negligent act or omission upon any state.

All liability, except as otherwise provided hereinafter, that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

Any member state rendering outside aid pursuant to this compact shall be reimbursed by the member state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries, and subsistence of employees and maintenance of equipment incurred in connection with such request; provided, that nothing herein con-

tained shall prevent any assisting member state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such service to the receiving member state without charge or cost.

Each member state shall provide for the payment of compensation and death benefits to injured employees and the representatives of deceased employees in case employees sustain injuries or are killed while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such state.

For the purposes of this compact the term employee shall include any volunteer or auxiliary legally included within the forest fire fighting forces of the aiding state under the laws thereof.

The compact administrators shall formulate procedures for claims and reimbursement under the provisions of this article, in accordance with the laws of the member states.

ARTICLE VI

Ratification of this compact shall not be construed to affect any existing statute so as to authorize or permit curtailment or diminution of the forest firefighting forces, equipment, services or facilities of any member state.

Nothing in this compact shall be construed to limit or restrict the powers of any state ratifying the same to provide for the prevention, control and extinguishment of forest fires, or to prohibit the enactment or enforcement of state laws, rules or regulations intended to aid in such prevention, control and extinguishment in such state.

Nothing in this compact shall be construed to affect any existing or future cooperative relationship or arrangement between any federal agency and a member state or states.

ARTICLE VII

The compact administrators may request the United States Forest Service to act as a research and coordinating agency of the Southeastern Interstate Forest Fire Protection Compact in cooperation with the appropriate agencies in each state, and the United States Forest Service may accept responsibility for preparing and presenting to the compact administrators its recommendations with respect to the regional fire plan. Representatives of any federal agency engaged in forest fire prevention and control may attend meetings of the compact administrators.

ARTICLE VIII

The provisions of articles IV and V of this compact which relate to mutual aid in combating, controlling or preventing forest fires shall be operative as between any state party to this compact and any other state which is party to a regional forest fire protection compact in another region; provided, that the legislature of such other state shall have given its assent to such mutual aid provisions of this compact.

ARTICLE IX

This compact shall continue in force and remain binding on each state ratifying it until the legislature or the governor of such state, as the laws of such state shall provide, takes action to withdraw therefrom. Such action shall not be effective until 6 months after notice thereof has been sent by the chief executive of the state desiring to withdraw to the chief executives of all states then parties to the compact.

Section 959. Section 590.33, Florida Statutes, is amended to read:

590.33 State compact administrator; compact advisory committee.—In pursuance of art. III of the compact, the Director of the Division of Forestry shall act as compact administrator for Florida of the Southeastern Interstate Forest Fire Protection Compact during his or her term of office as director, and his or her successor as compact administrator shall be his or her successor as Director of the Division of Forestry. As compact administrator he or she shall be an ex officio member of the advisory committee of the Southeastern Interstate Forest Fire Protection Compact, and ~~chair chairman~~ chair ex officio of the Florida members of the advisory committee. There shall be four members of the Southeastern Interstate Forest Fire Protection Compact Advisory Committee from Florida. Two of the members from Florida shall be members of the Legislature of Florida, one from the Senate and one from the House of Representatives, designated by the Florida Commission on Interstate Cooperation, and the terms of any such members shall terminate at the time they cease to hold legislative office, and their successors as members shall be named in like manner. The Governor shall appoint the other two members from Florida, one of whom shall be associated with forestry or forest products industries. The terms of such members shall be 3 years and such members shall hold office until their respective successors shall be appointed and qualified. Vacancies occurring in the office of such members from any reason or cause shall be filled by appointment by the Governor for the unexpired term. The Director of the Division of Forestry as compact administrator for Florida may delegate, from time to time, to any deputy or other subordinate in his or her department or office, the power to be present and participate, including voting as his or her representative or substitute at any meeting of or hearing by or other proceeding of the compact administrators or of the advisory committee. The terms of each of the initial four memberships, whether appointed at said time or not, shall begin upon the date upon which the compact shall become effective in accordance with art. II of said compact. Any member of the advisory committee may be removed from office by the Governor upon charges and after a hearing.

Section 960. Section 590.34, Florida Statutes, is amended to read:

590.34 State compact administrator and compact advisory committee members; powers; aid from other state agencies.—There is hereby granted to the director of the Division of Forestry, as compact administrator and chair ~~chairman~~ ex officio of the Florida members of the advisory committee, and to the members from Florida of the advisory committee all the powers provided for in the compact and all the powers necessary or incidental to the carrying out of the compact in every particular. All officers of Florida are

hereby authorized and directed to do all things falling within their respective provinces and jurisdiction necessary or incidental to the carrying out of the compact in every particular; it being hereby declared to be the policy of the state to perform and carry out the said compact and to accomplish the purposes thereof. All officers, bureaus, departments, and persons of and in the state government or administration of the state are hereby authorized and directed at convenient times and upon request of the compact administrator or of the advisory committee to furnish information data relating to the purposes of the compact possessed by them or any of them to the compact administrator of the advisory committee. They are further authorized to aid the compact administrator or the advisory committee by loan of personnel, equipment, or other means in carrying out the purposes of the compact.

Section 961. Section 591.30, Florida Statutes, is amended to read:

591.30 Seed trees; duty of Division of Forestry.—It shall be the duty of the Division of Forestry to cause to be made a branding hammer and a sufficient number of reproductions thereof to accomplish the purpose of this law, which said hammers shall bear the letters “S. T.,” which letters shall mean “seed tree,” and shall be as distinctively constructed as possible. Said branding hammers shall at all times remain in the custody and possession of said division or its duly authorized representatives. It shall be the duty of said division, upon the application of any owner of real estate to the effect that such owner is desirous of marking and designating trees on her or his real estate as seed trees, to direct as soon as is convenient and practical an employee or representative of said division, trained in the field of forestry, to contact such owner and mark and designate seed trees in accordance with the rules and practices of good forestry. Each of said seed trees shall be marked as such by branding on the trunk the letters “S. T.” at a point not more than 4½ feet from the ground and again at a point not more than 6 inches from the ground with the branding hammer or reproduction thereof hereinbefore described. Immediately upon said trees being so marked title thereto shall vest in the Department of Agriculture and Consumer Services of Florida as aforesaid.

Section 962. Section 591.34, Florida Statutes, is amended to read:

591.34 Seed trees; cutting trees, procedure.—Permission may be obtained from the Department of Agriculture and Consumer Services to cut seed trees by any owner of real estate on which same have been marked in accordance with the provisions of this law, upon filing with said department an affidavit that he or she is the owner and that all timber and trees on his or her land have been cut except seed trees and shade trees and that it is the intent of such owner to cultivate the land on which the seed trees sought to be cut are located, or that said seed trees sought to be cut are over mature, and if the said department is satisfied as to the truth of the contents of said affidavit it may issue a certificate giving such owner permission to cut said seed trees and said certificate shall be made a permanent record of the office of said department and a certified copy thereof may be obtained by the owner upon request. Upon the issuance of said certificate the owner shall have the right to cut the seed trees on the real estate designated in the certificate.

Section 963. Section 593.107, Florida Statutes, is amended to read:

593.107 Regulation of collection, transportation, distribution, and movement of cotton.—Each grower of cotton shall keep and furnish the department such information as it may, by rule, require regarding the collection, transportation, distribution, and processing of cotton for the purpose of determining if the cotton is infested with the boll weevil. Further, each such grower is required to keep and maintain sanitary at all times her or his vehicles used in the collection, transportation, and distribution of cotton under such rules as may be required by the department. The department may promulgate rules governing the movement of regulated articles within the state and from another state, or portion thereof, into an eradication zone when that state is known to be infested with the boll weevil.

Section 964. Paragraph (b) of subsection (2) of section 593.111, Florida Statutes, is amended to read:

593.111 Eligibility for certification of cotton growers' organization.—

(2)

(b) Immediately after their appointment, the members of the board shall meet and organize by the election of a chair ~~chairman~~ and a vice chair ~~chairman~~, whose terms of office shall be for 1 year. The board shall meet at the call of its chair ~~chairman~~, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules. A majority of the members of the board shall constitute a quorum for all purposes, and an act by a majority of such quorum at any meeting shall constitute an official act of the board.

Section 965. Subsection (3) of section 593.116, Florida Statutes, is amended to read:

593.116 Penalty for violation.—

(3) Any commercial cotton grower who fails to pay all assessments, including penalties, within 30 days after the date of the notice is required to destroy all cotton plants growing on his or her property subject to assessment. Any cotton plant not destroyed is deemed a public nuisance. The department may apply to any court of competent jurisdiction, and the court is authorized, in its discretion, to issue judgment and order condemnation and destruction of the nuisance. The grower is liable for all court costs, fees, and other expenses incurred in such action.

Section 966. Subsections (6) and (7) of section 600.041, Florida Statutes, are amended to read:

600.041 Definitions.—As used in this act, the following terms have the following meanings:

(6) "Handler" means any person engaged within this state as a distributor in the business of handling and distributing citrus fruit in fresh fruit form in the primary channel of trade, whether such citrus fruit be purchased from the producer thereof or handled for her or his account.

(7) "Distributor" means any person who engages in the operation of packing, selling, marketing, handling, and distributing, in the primary channel of trade, citrus fruit in fresh fruit form in commercial quantities (other than express or gift fruit shippers) which she or he has produced, or purchased or acquired from a producer, or which she or he is marketing on behalf of a producer, but shall include only such persons who own and operate or have available to them facilities for packing the fresh citrus fruit handled by them; provided however, that any common marketing agency handling the sales of fresh citrus fruit for the account of any of such persons who do not maintain their own sales force or organization shall be deemed a distributor as herein defined.

Section 967. Paragraph (a) of subsection (2) of section 600.051, Florida Statutes, is amended to read:

600.051 Marketing agreements; powers of department.—

(2) The department may issue and execute a marketing agreement, or any amendment thereof after its issuance, if it finds and sets forth in such marketing agreement that such agreement or amendment, as the case may be, will, with respect to the citrus fruit covered thereby, tend to:

(a) Reestablish or maintain prices received by producers for citrus fruit at a level which will give to such citrus fruit a purchasing power, with respect to the articles and services which producers commonly buy, equivalent to the purchasing power of such citrus fruit in the base period. The base period shall be such prior period in which the department finds that:

1. The volume of production of citrus fruit was adequate to supply the requirements of consumers thereof; and

2. The returns to producer of citrus fruit were sufficient to provide an adequate standard of living to the citrus fruit producer and his or her family.

Section 968. Paragraphs (a) and (c) of subsection (1), paragraphs (b) and (c) of subsection (2), and subsection (3) of section 601.04, Florida Statutes, are amended to read:

601.04 Florida Citrus Commission; creation and membership.—

(1)(a) There is hereby created and established within the Department of Citrus a board to be known and designated as the "Florida Citrus Commission" to be composed of 12 practical citrus fruit persons ~~men~~ who are resident citizens of the state, each of whom is and has been actively engaged in growing, growing and shipping, or growing and processing of citrus fruit in the state for a period of at least 5 years immediately prior to ~~his~~ appointment to the said commission and has, during said period, derived a major portion of her or his income therefrom or, during said time, has been the owner of, member of, officer of, or paid employee of a corporation, firm, or partnership which has, during said time, derived the major portion of its income from the growing, growing and shipping, or growing and processing of citrus fruit.

(c) There shall be four members of the commission from each of the three citrus districts. Each member must reside in the district from which she or

he was appointed. For the purposes of this section, the residence of a member shall be the actual physical and permanent residence of the member.

(2)

(b) When appointments are made, the Governor shall publicly announce the actual classification and district that each appointee represents. A majority of the members of the commission shall constitute a quorum for the transaction of all business and the carrying out of the duties of the commission. Before entering upon the discharge of their duties as members of the commission, each member shall take and subscribe to the oath of office prescribed in s. 5, Art. II of the State Constitution. The qualification of each member as herein required shall continue throughout the respective term of ~~his~~ office, and in the event a member should, after appointment, fail to meet the qualifications or classification which she or he possessed at the time of ~~his~~ appointment as above set forth, such member shall resign or be removed and be replaced with a member possessing the proper qualifications and classification.

(c) Each member of the commission in office on October 1, 1990, shall continue in office until the expiration of her or his current term. When making an appointment to the commission on or after October 1, 1990, the Governor shall announce the district and classification of the person appointed.

(3)(a) The commission is authorized to elect a chair ~~chairman~~ and vice chair ~~chairman~~ and such other officers as it may deem advisable.

(b) The chair ~~chairman~~, subject to commission concurrence, may appoint such advisory committees or councils composed of industry representatives as the chair ~~chairman~~ deems appropriate, setting forth areas of committee or council concern which are consistent with the statutory powers and duties of the commission and the Department of Citrus.

Section 969. Section 601.06, Florida Statutes, is amended to read:

601.06 Compensation and expenses of commission members.—Each member of the commission shall receive the sum of \$25 per day for each day or fraction thereof spent ~~by him~~ while en route to or from, or in actual attendance at, regular or special meetings of the commission or meetings of committees of the commission, or in transacting other business authorized by the Department of Citrus in addition to per diem and reimbursement of expenses as authorized by law.

Section 970. Section 601.08, Florida Statutes, is amended to read:

601.08 Authenticated copies of commission records as evidence.—Copies of the proceedings, records, and acts of the commission and certificates purporting to relate the facts concerning such proceedings, records, and acts signed by the chair ~~chairman~~ of the commission and authenticated by the seal of the Department of Citrus shall be prima facie evidence thereof in all the courts of the state.

Section 971. Subsection (9) of section 601.155, Florida Statutes, is amended to read:

601.155 Equalizing excise tax; credit; exemption.—

(9) When any processed orange or grapefruit product is stored or removed from its original container as provided in subsection (1), the equalizing excise tax is levied on such storage or removal, and such product is subsequently shipped out of the state in a vessel, tanker or tank car, or container having a capacity greater than 10 gallons, the person who is liable for the tax shall be entitled to a tax refund, if such tax has been paid, or to a tax credit, provided she or he can provide satisfactory proof that such product has been shipped out of the state and that no privilege taxable under subsection (1) other than storage or removal from the original container was exercised prior to such shipment out of the state.

Section 972. Subsection (7) of section 601.28, Florida Statutes, is amended to read:

601.28 Inspection fees.—

(7) The duties of the Department of Agriculture and Consumer Services shall include the duty to conduct hearings, through a hearing officer who shall be an attorney authorized to practice law within this state, on violations of this section and rules promulgated thereunder. Said hearing officer shall be selected by the Commissioner of Agriculture and shall be in addition to her or his regular legal staff authorized by law. Said hearing officer shall, in addition to conducting such hearings, be available to the Division of Fruit and Vegetables for other legal services on matters pertaining to violations of this chapter and rules promulgated thereunder.

Section 973. Section 601.33, Florida Statutes, is amended to read:

601.33 Interference with inspectors.—It is unlawful for any person to obstruct, hinder, resist, interfere with, or attempt to obstruct, hinder, resist, or interfere with any authorized inspector in the discharge of any duty imposed upon or required of her or him by the provisions of law or by any rule or regulation prescribed by the Department of Citrus or the Department of Agriculture, or to change or attempt to change any instrument, substance, article, or fluid used by such inspector or emergency inspector in making tests of citrus fruit or the canned or concentrated products thereof.

Section 974. Section 601.39, Florida Statutes, is amended to read:

601.39 Special inspectors.—In cases of emergency or necessity, when no citrus fruit inspector is available for inspection of a particular lot of citrus fruit or the canned or concentrated products thereof, the Department of Agriculture may designate some fit and competent individual to inspect, test, and certify as to such lot of fruit or the canned or concentrated products thereof. Certificates made or issued by such designated individual shall be signed by her or him as “Special citrus fruit inspector.” The designated individual ~~He~~ shall not be required to give any bond, but shall be subject to the penalties imposed for violation of any of the provisions of the citrus fruit laws.

Section 975. Section 601.40, Florida Statutes, is amended to read:

601.40 Registration of citrus packinghouses, processing plants with department.—The owner, manager, or operator of each packinghouse, canning plant, or concentrating plant, at which it is intended to pack, can, concentrate, or prepare citrus fruit for market or transportation during the then-present or the next ensuing citrus fruit shipping season, shall register such packinghouse, canning plant, or concentrating plant and its location, shipping point, and post office with the Department of Agriculture not less than 10 days before packing, canning, concentrating, or otherwise preparing any citrus fruit or the canned or concentrated products thereof for sale or transportation in or at such packinghouse, canning plant, or concentrating plant; and she or he shall, in addition to such registration, give the said Department of Agriculture not less than 7 days' written notice of the date on which packing, canning, concentrating, or other preparation for sale or transportation of citrus fruit of the then current or the next ensuing season's crop will be begun. The Department of Agriculture shall issue a certificate of registration to each such packinghouse, canning plant, or concentrating plant registering; provided, however, that no such certificate of registration shall be issued to any packinghouse, canning plant, or concentrating plant unless the operator thereof shall have first applied for and received her or his license as a citrus fruit dealer and furnished a his bond as such citrus fruit dealer in accordance with law.

Section 976. Section 601.51, Florida Statutes, is amended to read:

601.51 Certification required for shipment of citrus fruit or products.—No common carrier or other carrier or person, except as provided in s. 601.50, shall accept for shipment, ship, or transport any citrus fruit or the canned or concentrated products thereof until a grade certificate is issued showing the grade thereof, which certificate or a duplicate thereof shall be filed with the carrier at the point of shipment, nor shall any common carrier or other carrier or person accept for shipment or ship any citrus fruit or the canned or concentrated products thereof where written notice has been given to such common carrier, other carrier or person, or her or his representative or agent by the Department of Agriculture or its authorized agent, employee, or inspector that said citrus fruit or the canned or concentrated products thereof does not comply with the provisions of law or the rules and regulations promulgated by the Department of Citrus or the Department of Agriculture; provided that the shipper or handler of such citrus fruit or the canned or concentrated products thereof shall have the privilege of repacking or remarking, and that, if or when the same shall have been repacked or remarked to conform to the provisions of law or said rules, regulations, or orders promulgated by the Department of Citrus or the Department of Agriculture, the Department of Agriculture or its authorized inspector or agent shall notify said common carrier, other carrier or person, or her or his agent that such citrus fruit or the canned or concentrated products thereof may be accepted for shipment, and such shipper or handler shall not be considered as having violated this chapter or said rules, regulations, or orders, but provided further that this section shall be deemed to have been complied with if the shipper shall have conformed to regulations issued by the Department of Citrus under the provisions of s. 601.49.

Section 977. Subsection (1) of section 601.54, Florida Statutes, is amended to read:

601.54 Seizure of unwholesome fruit by Department of Agriculture's agents.—

(1) The Department of Agriculture or its duly authorized inspectors shall seize and destroy all citrus fruit found by said Department of Agriculture or inspectors to be unwholesome or decomposed so that it is unfit for canning or concentrating purposes as defined by law or by any regulation of the Department of Citrus pursuant to authority given in this chapter and, in the event any inspector shall find that any canner or concentrator is canning or concentrating fruit prohibited to be used, she or he may seize and destroy not only such fresh fruit found in the canning or concentrating plant but also citrus fruit or juice in the process of being canned or concentrated or which has been canned or concentrated from the same lot or shipment wherein the fresh fruit is found by said inspector to be subject to seizure under the provisions of this section.

Section 978. Subsection (1) of section 601.601, Florida Statutes, is amended to read:

601.601 Registration of dealers' agents.—Every licensed citrus fruit dealer shall:

(1) Register with the Department of Agriculture each and every agent, as defined in s. 601.03(2), authorized to represent such dealer; make application for registration of such agent or agents on a form approved by the Department of Agriculture and filed with the Department of Agriculture not less than 5 days prior to the active participation of the agent or agents on behalf of such dealer in any transaction described in s. 601.03(2); and be held fully liable for and legally bound by all contracts and agreements, verbal or written, involving the consignment, purchase, or sale of citrus fruit executed by a duly registered agent on the dealer's ~~his~~ behalf during the entire period of valid registration of such agent the same as though such contracts or agreements were executed by the dealer. Registration of each agent shall be for the entire shipping season for which the applying dealer's license is issued; however, a licensed dealer may cancel the registration of any agent registered by her or him by returning the agent's identification card to the Department of Agriculture and giving formal written notice to the Department of Agriculture of not less than 10 days. In addition, such dealer shall make every effort to alert the public to the fact that the agent is no longer authorized to represent her or him. An agent may be registered by more than one licensed dealer for the same shipping season, provided that each licensed dealer shall apply individually for registration of the agent and further provided that written consent is given by each and every dealer under whose license the agent has valid prior registration.

The Department of Citrus may, from time to time, adopt additional requirements or conditions relating to the registration of agents as may be necessary.

Section 979. Subsections (1) and (3) of section 601.61, Florida Statutes, are amended to read:

601.61 Bond requirements of citrus fruit dealers.—

(1) Except as hereinafter provided, prior to the approval of a citrus fruit dealer's license, the applicant therefor must deliver to the Department of Agriculture and Consumer Services a good and sufficient cash bond, appropriate certificate of deposit, or a surety bond executed by the applicant as principal and by a surety company qualified to do business in this state as surety, in an amount as determined by the Department of Citrus. The amount of such bond or certificate of deposit shall be determined by taking into consideration any one or more of the following: The number of standard packed boxes of citrus fruit, or the equivalent thereof, which the applicant intends to handle during the term of the license as set forth in the application; the total volume of fruit handled by the dealer the previous season; the highest month's volume handled the previous season; the anticipated increase in the total citrus crop during the season for which the application for license is made; and other relevant factors based on the following schedule:

- (a) \$1,000 up to 2,000 boxes;
- (b) \$2,000 up to 5,000 boxes;
- (c) \$3,750 up to 7,500 boxes;
- (d) \$5,000 up to 10,000 boxes;
- (e) \$10,000 up to 20,000 boxes;
- (f) \$1,000 for each additional 20,000 boxes or fraction thereof in excess of 20,000 boxes, with a maximum bond of \$100,000.

If a citrus fruit dealer during the term of her or his license finds that she or he has handled, or can reasonably expect to handle a volume of fruit greater than that covered by a his posted bond or certificate of deposit, the dealer shall have the affirmative duty of immediately notifying the Department of Agriculture and Consumer Services and initiating an increase in such bond or certificate of deposit to an amount that will meet the requirements set forth above.

(3) Said bond shall be to the Department of Agriculture, for the use and benefit of every producer and of every citrus fruit dealer with whom the dealer deals in the purchase, handling, sale, and accounting of purchases and sales of citrus fruit. The aggregate accumulative liability under any bond shall not exceed the amount named therein. Said bond shall provide that the surety company thereon shall not be liable to any citrus fruit dealer claiming to be injured or damaged by the said dealer if the aggregate of the amounts found to be due to producers pursuant to the provisions of this chapter equals or exceeds the amount of the bond, unless such citrus fruit dealer is also a producer and is acting in the capacity of a producer and not in the capacity of a citrus fruit dealer in the transaction wherein she or he

claims to have been injured or damaged by applicant; but if the aggregate of such amounts is less than the amount of the bond, then the surety may be held liable to such citrus fruit dealers, but not in excess of the sum by which the amount of the bond exceeds the aggregate of the amounts found to be due to producers pursuant to the provisions of this chapter.

Section 980. Subsections (2) and (3) of section 601.641, Florida Statutes, are amended to read:

601.641 Fraudulent representations, penalties.—

(2) It shall be unlawful for any person, firm, association, or corporation to advertise or in any way represent falsely as to her or his status as a seller of citrus fruit, to make any false claim as to the status of such seller of citrus fruit, or to make any false claim as to the condition, grade, quality, quantity, grove origin, or producer's name and address of any citrus fruit sold by any such person, firm, association, or corporation.

(3) It shall be unlawful for any person, firm, association, or corporation licensed under this chapter to advertise or to use on her or his letterhead, or on any advertising material, or in any way pretend to be a bonded shipper unless said person, firm, association, or corporation has filed and had approved a performance bond in addition to the bond required under this chapter.

Section 981. Subsection (3) of section 601.66, Florida Statutes, is amended to read:

601.66 Complaints of violations by citrus fruit dealers; procedure; bond distribution; court action on bond.—

(3) If the dealer, in her or his answer to the original complaint, denies the violation alleged, the Department of Agriculture shall thereupon determine whether the facts and circumstances set forth in the complaint have been established by competent substantial evidence.

Section 982. Subsection (1) of section 601.67, Florida Statutes, is amended to read:

601.67 Disciplinary action by Department of Agriculture and Consumer Services against citrus fruit dealers.—

(1) The Department of Agriculture and Consumer Services may impose a fine not exceeding \$50,000 per violation against any licensed citrus fruit dealer for violation of any provision of this chapter and, in lieu of, or in addition to, such fine, may revoke or suspend the license of any such dealer when it has been satisfactorily shown that such dealer, in her or his activities as a citrus fruit dealer, has:

(a) Obtained a license by means of fraud, misrepresentation, or concealment;

(b) Violated or aided or abetted in the violation of any law of this state governing or applicable to citrus fruit dealers or any lawful rules of the Department of Citrus;

(c) Been guilty of a crime against the laws of this or any other state or government involving moral turpitude or dishonest dealing, or has become legally incompetent to contract or be contracted with;

(d) Made, printed, published, distributed, or caused, authorized, or knowingly permitted the making, printing, publication, or distribution of false statements, descriptions, or promises of such a character as to reasonably induce any person to act to her or his damage or injury, if such citrus fruit dealer then knew, or, by the exercise of reasonable care and inquiry, could have known of the falsity of such statements, descriptions, or promises;

(e) Knowingly committed or been a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relying upon the word, representation, or conduct of the citrus fruit dealer has acted to her or his injury or damage;

(f) Committed any act or conduct of the same or different character of that hereinabove enumerated which constitutes fraudulent or dishonest dealing; or

(g) Violated any of the provisions of ss. 506.19 through 506.28, both sections inclusive.

Section 983. Section 601.68, Florida Statutes, is amended to read:

601.68 Investigation of violations.—The Department of Agriculture may instigate and make investigation of any citrus fruit dealer who it has reason to believe has violated any law of this state governing and applicable to citrus fruit dealers, and, whenever the Department of Agriculture determines that any citrus fruit dealer has violated any law of the state governing and applicable to citrus fruit dealers, it may publish the facts and circumstances of such violation and suspend the license of such offender for a specific period or revoke the same or make such other appropriate order as it may deem just and proper, and any such order shall specify the effective date thereof and any order other than one suspending or revoking a license shall automatically suspend such license until said order is complied with. Any administrative order of the Department of Agriculture issued under the provisions of ss. 601.66-601.68 or s. 601.70 shall be deemed to have been issued in the county wherein the licensee has her or his main office, as disclosed in the licensee's his application for citrus dealer's license.

Section 984. Section 601.69, Florida Statutes, is amended to read:

601.69 Records to be kept by citrus fruit dealers.—Every citrus fruit dealer shall make and keep a correct record showing in detail the following with reference to the purchase, handling, sale, and accounting of sale of citrus fruit handled by her or him, namely:

(1) The name and address of the producers or other persons from whom the citrus fruit was procured, and, if same was procured from some person other than a licensed citrus fruit dealer, the name and address of the producer of said fruit;

(2) The date citrus fruit is received, the amount thereof, and the purchase price paid therefor if purchased for the purpose of resale;

(3) The condition of such citrus fruit upon receipt by the citrus fruit dealer;

(4) If the citrus fruit is handled on consignment for the account of the producer, the date of sale and the selling price;

(5) An itemized statement of the charges to be paid by the producer in connection with any sale;

(6) A detailed statement of all claims made by producers against the citrus fruit dealer, a copy of each when received to be certified and filed with the Department of Agriculture;

(7) A copy of the record and account of sale of citrus fruit handled on consignment or commission shall be delivered to the producer upon the consummation of the sale, together with all moneys received by the citrus fruit dealer in payment for such transaction made upon account of the producer, less the agreed commission and other charges which must be separately itemized, and said payment and accounting must be made by said citrus fruit dealer to the producer within 15 days after said citrus fruit dealer receives the money in payment of said citrus fruit unless otherwise specified in contract between citrus fruit dealers and producer;

(8) A detailed statement and record of the resale or commercial disposition of citrus fruit so purchased by the dealer for purpose of resale or other commercial disposition, showing the number of boxes resold, the moneys received by such dealer upon such resale of the fruit, the person or dealer and address thereof to whom sold, the date of such resale, and how delivered to such purchaser;

(9) Any other record or account required to be kept and maintained by such dealer by rule or regulation of the Department of Citrus duly promulgated.

Section 985. Paragraph (d) of subsection (1) and subsection (2) of section 601.731, Florida Statutes, are amended to read:

601.731 Transporting citrus on highways; name and dealer designation on vehicles; load identification; penalty.—

(1)

(d) A motor vehicle which is not so marked that is so hauling such citrus fruit on the highways of this state shall prima facie be considered to be hauling commercial fruit with intent to violate this section. The provisions of this subsection do not apply to any such fruit being hauled from the farm or grove by the producer of such fruit in her or his own vehicle to market or place of first commercial handling unless such producer is also a licensed citrus fruit dealer.

(2) Any person driving any truck, tractor, trailer, or other motor vehicle hauling citrus fruit in bulk or in unclosed containers for commercial purposes on the highways of the state shall have on her or his person when driving such vehicle a certificate or other paper showing the approximate amount of fruit being hauled; the name of the owner and the grove or other origin of such fruit; the number painted or affixed by decal, as well as the number of the motor vehicle license tag, on the vehicle in which such fruit is being hauled; and such other information and data as may be prescribed by regulation of the Department of Citrus, and it is unlawful to drive any such vehicle on the highways of this state without having such certificate or other paper. The failure of any such person to have such certificate or other paper on her or his person when driving, as aforesaid, is prima facie evidence of intent to violate and of the violation of this act.

Section 986. Subsection (1) of section 601.90, Florida Statutes, is amended to read:

601.90 Freeze-damaged citrus fruit; power of commission.—

(1) Whenever freezing temperatures of sufficient degree to cause serious damage to citrus fruit occur in all major citrus-producing areas of the state, the commission, upon call of the chair ~~chairman~~ and with such notice as may be appropriate under the circumstances, shall meet within 96 hours of the last occurrence of such freezing temperatures to determine whether or not such freezing temperatures have caused damage to citrus fruit as defined in s. 601.03 and, if so, the degree of such damage.

Section 987. Section 601.96, Florida Statutes, is amended to read:

601.96 Seized fruit; taking samples for analysis.—Upon the making of seizure of any citrus fruit as provided in s. 601.95, the inspector making said seizure shall immediately draw samples therefrom, as shall be provided for by regulations to be issued by the Department of Agriculture, drawing said samples either from the packinghouse, canning plant, or concentrating plant bins, or elsewhere in the packinghouse, canning plant, or concentrating plant, or from field boxes or vehicles delivering said citrus fruit to said packinghouse. Such samples so drawn by said inspector shall be transported with all possible haste to such chemist as may be designated by the Department of Agriculture for the making by such chemist of a chemical analysis thereof to determine whether or not the said citrus fruit contains arsenic. Said chemist shall make said analysis with all the proper haste and report by the quickest means available the result of said analysis as soon as the same is completed to the inspector making the seizure. If the said analysis shall show that the said citrus fruit contains no arsenic, the inspector shall release the fruit from seizure as soon as she or he receives the report of the chemist thereon.

Section 988. Paragraph (d) of subsection (1) of section 601.9910, Florida Statutes, is amended to read:

601.9910 Legislative findings of fact; strict enforcement of maturity standard in public interest.—

(1) FINDINGS.—

(d) The Legislature finds and determines and so declares that the enforcement of the maturity standards, as set forth in this chapter, will not result in preventing any grower from marketing her or his fruit at some time during the marketing season, whenever nature has removed the raw, immature flavor; and, if there is a delay in such marketing, it will result in higher prices for the entire season, bringing additional millions of dollars to the growers of Florida and resulting in benefit to all growers, including the grower or growers who were delayed a short time in the shipment of their fruit.

Section 989. Section 601.9911, Florida Statutes, is amended to read:

601.9911 Fruit may be sold or transported direct from producer.—Any citrus producer may transport her or his own citrus fruit or any citrus fruit may be sold or purchased and transported in interstate or intrastate commerce in truckload lots direct from a producer and any such fruit so sold, purchased, or transported need not be processed, handled by any packing-house, washed, polished, graded, stamped, labeled, branded, placed in containers, or otherwise prepared for market as may be provided herein. Such fruit shall be certified at the time of inspection as tree run grade of fruit, but shall otherwise remain subject to the maturity standards and all other conditions, restrictions, emergency quality assurance orders, and other requirements of this chapter and shall be inspected for such compliance as all other fruit is inspected at such convenient locations as may be determined by the Department of Agriculture. Any such fruit violating any of the provisions of this chapter, or any rule or regulation of the Department of Citrus made pursuant to this chapter, but not inconsistent with this section, may be seized, condemned, and destroyed as provided herein. At the time of such inspection, all fees, assessments, and excise taxes provided in this chapter shall be paid and collected at the same rate as paid by all other fresh fruit growers or shippers.

Section 990. Subsection (3) of section 603.161, Florida Statutes, is amended to read:

603.161 Sales certificates, work orders to accompany certain fruit.—

(3) The sales certificate shall indicate the name, address and telephone number of the grower from whom the fruit was purchased; the species, variety and amount purchased; and for the purchaser and each subsequent purchaser, her or his name, address and telephone number, date of purchase and driver's license number; if the fruit is transported by other than the owner, the name of the transporting company and the make, type and license number of the vehicle transporting the fruit. The grower shall keep a copy of the sales certificate for 1 year from date of the purchase. The Commissioner of Agriculture, according to requirements of this section, shall prescribe the form of sales certificates.

Section 991. Subsections (1), (2), and (3) of section 603.203, Florida Statutes, are amended to read:

603.203 Tropical Fruit Advisory Council.—

(1) There is hereby created within the Department of Agriculture and Consumer Services the Tropical Fruit Advisory Council to consist of eight members as follows: the ~~chair~~ chairman of the State Agricultural Advisory Council or a designee thereof; a representative from the Institute of Food and Agricultural Sciences at the University of Florida who is a specialist in tropical fruits; and six additional commercial members representing as fairly as may be possible the diverse tropical fruit industry and tropical fruit growers associations, who shall be appointed for a 4-year term by the Commissioner of Agriculture. Initially, the Commissioner of Agriculture shall appoint two members for a term of 4 years, two members for a term of 3 years, two members for a term of 2 years, and two members for a term of 1 year. Thereafter, members shall be appointed for 4-year terms.

(2) Immediately after their appointment, the members of the council shall meet and organize by electing a ~~chair~~ chairman, a vice ~~chair~~ chairman, and a secretary, and shall adopt rules of procedure for governing their deliberations. The terms of such officers shall be for 1 year.

(3) The council shall meet in South Florida at the call of its ~~chair~~ chairman, at the request of a majority of its membership, at the request of the Commissioner of Agriculture, or at such times as may be prescribed by its rules.

Section 992. Subsection (1) of section 603.204, Florida Statutes, is amended to read:

603.204 South Florida Tropical Fruit Plan.—

(1) The Commissioner of Agriculture, in consultation with the Tropical Fruit Advisory Council, shall, at least 90 days prior to the 1991 legislative session, submit to the President of the Senate, the Speaker of the House of Representatives, and the ~~chairs~~ chairmen of appropriate Senate and House of Representatives committees, a South Florida Tropical Fruit Plan, which shall identify problems and constraints of the tropical fruit industry, propose possible solutions to such problems, and develop planning mechanisms for orderly growth of the industry, including:

(a) Criteria for tropical fruit research, service, and management priorities.

(b) Additional proposed legislation which may be required.

(c) Plans relating to other tropical fruit programs and related disciplines in the State University System.

(d) Potential tropical fruit products in terms of market and needs for development.

(e) Evaluation of production and fresh fruit policy alternatives, including, but not limited to, setting minimum grades and standards, promotion and advertising, development of production and marketing strategies, and setting minimum standards on types and quality of nursery plants.

(f) Evaluation of policy alternatives for processed tropical fruit products, including, but not limited to, setting minimum quality standards and development of production and marketing strategies.

(g) Research and service priorities for further development of the tropical fruit industry.

(h) Identification of state agencies and public and private institutions concerned with research, education, extension, services, planning, promotion, and marketing functions related to tropical fruit development, and delineation of contributions and responsibilities. The recommendations in the South Florida Tropical Fruit Plan relating to education or research shall be submitted to the Institute of Food and Agricultural Sciences. The recommendations relating to regulation or marketing shall be submitted to the Department of Agriculture and Consumer Services.

(i) Business planning, investment potential, financial risks, and economics of production and utilization.

Section 993. Subsection (2) of section 604.11, Florida Statutes, is amended to read:

604.11 Limited agricultural association; formation, fees.—

(2) Two copies of the proposed articles of association, together with a certificate of the Department of State to the effect that there is no other limited agricultural association within the state having the same name, shall be filed with the clerk of the circuit court in the county within which the principal place of business of the association is to be located. The said articles shall then be presented to a circuit judge of the circuit within which the principal place of business of the association is to be located, and, if such judge shall find that the proposed articles of association are for purposes authorized by law, she or he shall approve the same and endorse her or his approval thereon. The articles of association, with their endorsements, shall thereupon be recorded by the clerk of the circuit court, and thereafter the association and the subscribers shall be a limited agricultural association for profit. The clerk of the circuit court shall transmit a certified copy of the articles of association to the Department of State for filing. The original articles of association, or any certified copy thereof, shall be received as conclusive evidence of the contents thereof. The Department of State and the clerk of the circuit court shall each be entitled to a fee of \$5.25 for all services rendered by them in connection with the formation of the association.

Section 994. Paragraph (e) of subsection (1) of section 604.12, Florida Statutes, is amended to read:

604.12 Limited agricultural association; articles of association, name.—

(1) The articles of association shall be subscribed by three or more persons, and shall set forth:

(e) The number, to be not less than three, of the association's managing committee members ~~committeemen~~. Managing committee members ~~committeemen~~ shall be members of the association.

Section 995. Subsection (1) and paragraph (a) of subsection (8) of section 604.15, Florida Statutes, are amended to read:

604.15 Dealers in agricultural products; definitions.—For the purpose of ss. 604.15-604.34, the following words and terms, when used, shall be construed to mean:

(1) “Dealer in agricultural products” means any person, whether itinerant or domiciled within this state, engaged within this state in the business of purchasing, receiving, or soliciting agricultural products from the producer or her or his agent or representative for resale or processing for sale; acting as an agent for such producer in the sale of agricultural products for the account of the producer on a net return basis; or acting as a negotiating broker between the producer or her or his agent or representative and the buyer.

(8) “Grain dealer” means any person engaged in this state in:

(a) Buying, receiving, selling, exchanging, negotiating, or processing for resale, or soliciting the sale, resale, exchange, or transfer of, grain purchased from the producer or her or his agent or representative or received from the producer to be handled on a net return basis; or

Section 996. Subsection (3) of section 604.20, Florida Statutes, is amended to read:

604.20 Bond or certificate of deposit prerequisite; amount; form.—

(3) In order to effectuate the purposes of this section, the department or its agents may require from any applicant or licensee verified statements of the volume of her or his business or may review the applicant or licensee’s ~~his~~ records at her or his place of business during normal business hours for the purpose of determining her or his volume of business. The failure of a licensee to furnish such statement, to make such records available, or to make and deliver a new or additional bond or certificate of deposit shall be cause for suspension of the licensee’s ~~his~~ license. If the department finds such failure to be willful, the license may be revoked.

Section 997. Section 604.211, Florida Statutes, is amended to read:

604.211 Limitation on successive consignments.—No licensee, while acting as an agent for a producer or in disposing of agricultural products received on consignment from a producer or her or his agent or representative, shall consign such products to another, use the services of a broker, or receive more than one commission or fee for making the sale thereof, unless by written consent of the producer or consignor. No charges or costs for acts prohibited by this section may be passed on to the producer or consignor.

Section 998. Subsection (1) of section 604.22, Florida Statutes, is amended to read:

604.22 Dealers to keep records; contents.—

(1) Each licensee, while acting as agent for a producer, shall make and preserve for at least 1 year a record of each transaction, specifying the name and address of the producer for whom she or he acts as agent; the date of receipt; the kind, quality, and quantity of agricultural products received; the name and address of the purchaser of each package of agricultural products; the price for which each package was sold; the amount and explanation of any adjustments given; and the net amount due from each purchaser. An account of sales shall be furnished each producer within 48 hours after the sale of such agricultural products. Such account of sales shall clearly show the sale price of each lot of agricultural products sold; all adjustments to the original price, along with an explanation of such adjustments; and an itemized showing of all marketing costs deducted by the licensee, along with the net amount due the producer. The licensee shall make the payment to the producer within 5 days of the licensee's receipt of payment.

Section 999. Section 604.23, Florida Statutes, is amended to read:

604.23 Examination of records, sales, accounts, books, and other documents.—The department shall have power to investigate upon complaint of any interested person or upon its own initiative, the record of any applicant or licensee, or any transaction involving the solicitation, receipt, sale or attempted sale of agricultural products, the failure to make proper and true accounts and settlements at prompt and regular intervals, the making of false statements as to condition, quality or quantity of goods received or while in storage, the making of false statements as to market conditions with intent to deceive, or the failure to make payment for goods received, or other alleged injurious transactions. For such purposes the department or its agents may examine, at the place or places of business of the applicant or licensee, her or his ledgers, books of accounts, memoranda, and other documents which relate to the transaction involved, and may take testimony thereon under oath.

Section 1000. Paragraphs (a), (d), and (g) of subsection (1) and subsection (2) of section 604.25, Florida Statutes, are amended to read:

604.25 Refusal to grant, or suspension or revocation of, license.—

(1) The department may decline to grant a license or may suspend or revoke a license already granted if the applicant or licensee has:

(a) Suffered a money judgment to be entered against her or him upon which execution has been returned unsatisfied;

(d) Made any false statement or statements as to condition, quality, or quantity of goods received or held for sale when she or he could have ascertained the true condition, quality, or quantity by reasonable inspection;

(g) Directly or indirectly sold agricultural products received on consignment or on a net return basis for her or his own account, without prior authority from the producer consigning the same, or without notifying such producer;

(2) If a licensee fails or refuses to comply in full with an order of the department, her or his license may be suspended or revoked, in which case

she or he shall not be eligible for license for a period of 1 year or until she or he has fully complied with the order of the department.

Section 1001. Paragraph (b) of subsection (3) of section 604.30, Florida Statutes, is amended to read:

604.30 Penalties; injunctive relief; administrative fines.—

(3)

(b) Whenever any administrative order has been made and entered by the department imposing a fine pursuant to this subsection, the order shall specify the amount of the fine and a time limit of no more than 15 days for the payment thereof. Upon the failure of the dealer involved to pay the fine within that time, the dealer's license as dealer in agricultural products shall be subject to suspension or revocation and a fine of \$50 a day shall be imposed on the dealer while she or he is in violation of such order.

Section 1002. Subsection (10) of section 604.32, Florida Statutes, is amended to read:

604.32 Grain dealers to provide delivery tickets.—Each grain dealer receiving grain shall issue and provide to the grain producer a delivery ticket within a reasonable time, not to exceed 24 hours, after delivery of the grain. The delivery ticket shall include, at least, the following information:

(10) The signature of the grain dealer or her or his agent, representative, or employee.

Section 1003. Section 604.33, Florida Statutes, is amended to read:

604.33 Security requirements for grain dealers.—Each grain dealer doing business in the state shall maintain liquid security, in the form of grain on hand, cash, certificates of deposit, or other nonvolatile security that can be liquidated in 10 days or less, or cash bonds, surety bonds, or letters of credit, that have been assigned to the department and that are conditioned to secure the faithful accounting for and payment to the producers for grain stored or purchased, in an amount equal to the value of grain which the grain dealer ~~he~~ has received from grain producers for which the producers have not received payment. The bonds must be executed by the applicant as principal and by a surety corporation authorized to transact business in the state. The certificates of deposit and letters of credit must be from a recognized financial institution doing business in the United States. Each grain dealer shall report to the department monthly, on or before a date established by rule of the department, the value of grain she or he has received from producers for which the producers have not received payment and the types of transaction involved, showing the value of each type of transaction. The report shall also include a statement showing the type and amount of security maintained to cover the grain dealer's liability to producers. The department shall make at least one spot check annually of each grain dealer to determine compliance with the requirements of this section.

Section 1004. Subsection (11) of section 403.021, Florida Statutes (1996 Supplement), is amended to read:

403.021 Legislative declaration; public policy.—

(11) It is the intent of the Legislature that water quality standards be reasonably established and applied to take into account the variability occurring in nature. The department shall recognize the statistical variability inherent in sampling and testing procedures that are used to express water quality standards. The department shall also recognize that some deviations from water quality standards occur as the result of natural background conditions. The department shall not consider deviations from water quality standards to be violations when the discharger can demonstrate that the deviations would occur in the absence of any human-induced ~~man-induced~~ discharges or alterations to the water body.

Section 1005. Subsection (7) of section 403.031, Florida Statutes (1996 Supplement), is amended to read:

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

(7) “Pollution” is the presence in the outdoor atmosphere or waters of the state of any substances, contaminants, noise, or manmade or human-induced ~~man-induced~~ impairment of air or waters or alteration of the chemical, physical, biological, or radiological integrity of air or water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation unless authorized by applicable law.

Section 1006. Paragraph (b) of subsection (3) of section 403.0876, Florida Statutes (1996 Supplement), is amended to read:

403.0876 Permits; processing.—

(3)

(b) At the applicant's discretion and notwithstanding any other provisions of chapter 120, a permit processed under this subsection is subject to an expedited administrative hearing pursuant to ss. 120.569 and 120.57. To request such hearing, the applicant must notify the Division of Administrative Hearings, the department, and all other parties in writing within 15 days after his or her receipt of notice of assignment of an administrative law judge from the division. The division shall conduct a hearing within 45 days after receipt of the request for such expedited hearing.

Section 1007. Subsection (4) of section 403.0885, Florida Statutes (1996 Supplement), is amended to read:

403.0885 Establishment of federally approved state National Pollutant Discharge Elimination System (NPDES) Program.—

(4) The department shall respond, in writing, to any written comments on a pending application for a state NPDES permit which the department

receives from the executive director, or his or her designee, of the Game and Fresh Water Fish Commission on matters within the commenting agency's jurisdiction. The department's response shall not constitute agency action for purposes of ss. 120.569 and 120.57 or other provisions of chapter 120.

Section 1008. Paragraph (e) of subsection (4) of section 403.508, Florida Statutes (1996 Supplement), is amended to read:

403.508 Land use and certification proceedings, parties, participants.—

(4)

(e) Other parties may include any person, including those persons enumerated in paragraph (c) who have failed to timely file a notice of intent to be a party, whose substantial interests are affected and being determined by the proceeding and who timely file a motion to intervene pursuant to chapter 120 and applicable rules. Intervention pursuant to this paragraph may be granted at the discretion of the designated administrative law judge and upon such conditions as he or she may prescribe any time prior to 30 days before the commencement of the certification hearing.

Section 1009. Section 403.785, Florida Statutes (1996 Supplement), is amended to read:

403.785 Appointment of administrative law judge.—Within 7 days after receipt of an application, whether complete or not, the department shall request the Division of Administrative Hearings to designate an administrative law judge to conduct the hearings required by ss. 403.78-403.7893. The division director shall designate an administrative law judge within 7 days after receipt of the request from the department. The designated administrative law judge shall give priority to this proceeding, and her or his workload shall be adjusted by the division to facilitate the prompt conclusion of this matter. Upon being advised that an administrative law judge has been appointed, the department shall immediately file a copy of the application and all supporting documents with the administrative law judge, who shall docket the application. All other time limits provided in ss. 403.78-403.7893 shall run from the date of the filing of the application with the Division of Administrative Hearings.

Section 1010. Subsection (2) of section 403.805, Florida Statutes (1996 Supplement), is amended to read:

403.805 Secretary; powers and duties.—

(2) No person who is responsible for final agency action to approve any portion of a permit issued pursuant to s. 403.0885 shall receive or shall have received after appointment or during the 2 years prior to appointment directly or indirectly from such permitholders or applicants 10 percent or more of his or her gross personal income for a calendar year or 50 percent of his or her gross personal income for a calendar year if the recipient is over 60 years of age and is receiving such portion pursuant to a retirement pension or similar arrangement. "Permitholders" or "applicants for a permit" as used in this section shall not include any department or agency of state government. The term "income" shall include, but not be limited to, retirement

benefits, consultant fees, and stock dividends. Income shall not be deemed received “directly or indirectly from permitholders or applicants for a permit” where it is derived from mutual fund payments, or from other diversified investments, for which the recipient does not know the identity of the primary source of income.

Section 1011. Subsection (2) of section 403.814, Florida Statutes (1996 Supplement), is amended to read:

403.814 General permits; delegation.—

(2) After giving public notice and, upon the request of any person, holding a public hearing in the area affected, the department may issue a general permit in the Biscayne Bay Aquatic Preserve for the placement of riprap waterward of vertical seawalls or as replacement for vertical seawalls, for the purpose of enhancing the water quality and fish and wildlife habitats of the Biscayne Bay area. No other general permits shall be issued within the preserve. Nothing herein shall be construed to abrogate the rights of any person under the provisions of chapter 120. In addition to the public notice required by this subsection, public notice shall be provided by United States mail to any person who requests, in writing, to have her or his name placed on a mailing list by the department. Notice of activities allowed pursuant to such general permit shall also be mailed, at least monthly, to all persons on the list.

Section 1012. Paragraph (e) of subsection (1) of section 403.9326, Florida Statutes (1996 Supplement), is amended to read:

403.9326 Exemptions.—

(1) The following activities are exempt from the permitting requirements of ss. 403.9321-403.9333 and any other provision of law if no herbicide or other chemical is used to remove mangrove foliage:

(e) The trimming of mangrove trees by a state-licensed surveyor in the performance of her or his duties, if the trimming is limited to a swath of 3 feet or less in width.

Section 1013. Subsection (4) of section 404.111, Florida Statutes (1996 Supplement), is amended to read:

404.111 Surety requirements.—

(4) Nothing in this section or s. 404.122 may be deemed to relieve any licensee of any civil or criminal liability incurred; nor may anything contained in this section or s. 404.122 be construed to relieve the licensee from his or her obligation to pay to prevent or mitigate the consequences of abandonment of radioactive materials, default on lawful obligations, insolvency, or other inability to meet the requirements of the department.

Section 1014. Subsection (2) of section 404.131, Florida Statutes (1996 Supplement), is amended to read:

404.131 Fees.—

(2) The department shall require that each person who possesses a specific license to use, manufacture, produce, transport, transfer, receive, acquire, own, or possess radioactive material annually pay to the department an additional 5 percent of his or her annual licensing and inspection fee for the purposes of s. 404.122. All fees collected as specified in this subsection shall be deposited in the Radiation Protection Trust Fund. These fees are not refundable.

Section 1015. Paragraphs (d) and (f) of subsection (1), subsection (2), and paragraph (a) of subsection (3) of section 406.075, Florida Statutes (1996 Supplement), are amended to read:

406.075 Grounds for discipline; disciplinary proceedings.—

(1) A district or associate medical examiner may be removed or suspended by the Medical Examiners Commission for any of the following:

(d) Disciplinary action against him or her by any state board licensing him or her as a physician.

(f) A material misrepresentation of his or her education, training, experience, or expertise while in his or her capacity as a medical examiner.

(2) The commission shall cause to be investigated any complaint which is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint is legally sufficient if it contains ultimate facts which show a violation of this chapter or of any rule promulgated by the commission. The commission may investigate and take action on a complaint even though the complainant withdraws the complaint. The commission may investigate a complaint from a confidential informant if the complaint is substantial, if the alleged violation is substantial, if the complaint is legally sufficient, and if the commission has reason to believe, after inquiry, that the allegations are true. When an investigation of any district medical examiner or associate medical examiner is commenced, the commission shall notify the person against whom the complaint was made of the substance of the investigation, unless the commission ~~chair~~ ~~chairman~~ agrees in writing that such notification would be detrimental to the investigation. The commission may conduct an investigation without notification to any person if the act under investigation is a criminal offense. The commission ~~chair~~ ~~chairman~~ shall direct the commission staff to perform an expeditious investigation into the facts of the case, with the assistance of the Department of Law Enforcement, if needed. The staff report shall contain investigative findings and recommendations as to probable cause.

(3)(a) The commission ~~chair~~ ~~chairman~~ shall appoint a probable cause panel of three members from among the commission membership, one of whom shall be a medical examiner. The probable cause panel may request staff to perform additional investigations as it sees fit.

1. The determination as to whether or not probable cause exists shall be made by a majority vote of the probable cause panel within 30 working days

of its receipt of staff investigative findings and recommendations. The commission ~~chair~~ chairman may grant 30-day extensions of the 30 working day time limit.

2. All proceedings and findings of the probable cause panel are exempt from the provisions of s. 286.011 until probable cause has been found or until the subject of the investigation waives confidentiality. The complaint, all investigative findings, and the recommendations of the probable cause panel are exempt from the provisions of s. 119.07(1) until 10 days after probable cause has been found or until the subject of the investigation waives confidentiality. The commission may provide such information at any time to any law enforcement agency or to any regulatory agency.

Section 1016. Paragraph (e) of subsection (3) of section 408.001, Florida Statutes (1996 Supplement), is amended to read:

408.001 Florida Health Care Purchasing Cooperative.—

(3) BOARD OF DIRECTORS.—

(e) A member of the board of directors or an employee or agent of the board incurs no liability, and no cause of action may arise against a board member or any employee or agent of the board, for any action taken by the member, employee, or agent in performing his or her powers and duties under this act.

Section 1017. Subsection (1) and paragraphs (a), (c), and (d) of subsection (2) of section 408.40, Florida Statutes (1996 Supplement), are amended to read:

408.40 Budget review proceedings; duty of Public Counsel.—

(1) Notwithstanding any other provisions of this chapter, it shall be the duty of the Public Counsel to represent the general public of the state in any proceeding before the agency or its advisory panels in any administrative hearing conducted pursuant to the provisions of chapter 120 or before any other state and federal agencies and courts in any issue before the agency, any court, or any agency. With respect to any such proceeding, the Public Counsel is subject to the provisions of and may utilize the powers granted to him or her by ss. 350.061-350.0614.

(2) The Public Counsel shall:

(a) Recommend to the agency, by petition, the commencement of any proceeding or action or to appear, in the name of the state or its citizens, in any proceeding or action before the agency and urge therein any position which he or she deems to be in the public interest, whether consistent or inconsistent with positions previously adopted by the agency, and utilize therein all forms of discovery available to attorneys in civil actions generally, subject to protective orders of the agency which shall be reviewable by summary procedure in the circuit courts of this state.

(c) In any proceeding in which he or she has participated as a party, seek review of any determination, finding, or order of the agency, or of any

administrative law judge, or any hearing officer or hearing examiner designated by the agency, in the name of the state or its citizens.

(d) Prepare and issue reports, recommendations, and proposed orders to the agency, the Governor, and the Legislature on any matter or subject within the jurisdiction of the agency, and to make such recommendations as he or she deems appropriate for legislation relative to agency procedures, rules, jurisdiction, personnel, and functions.

Section 1018. Paragraph (g) of subsection (2), paragraph (e) of subsection (3), paragraph (a) of subsection (11), and paragraph (a) of subsection (14) of section 409.175, Florida Statutes (1996 Supplement), are amended to read:

409.175 Licensure of family foster homes, residential child-caring agencies, and child-placing agencies.—

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

(g) “Operator” means any onsite person ultimately responsible for the overall operation of a child-placing agency, family foster home, or residential child-caring agency, whether or not she or he is the owner or administrator of such an agency or home.

(3)

(e) The department or licensed child-placing agency may place a 16-year-old child or 17-year-old child in her or his own unlicensed residence, or in the unlicensed residence of an adult who has no supervisory responsibility for the child, provided the department or licensed child-placing agency retains supervisory responsibility for the child.

(11)(a) It is unlawful for any person or agency to:

1. Provide continuing full-time care for or to receive or place a child apart from her or his parents in a residential group care facility, family foster home, or adoptive home without a valid license issued by the department if such license is required by subsection (4); or

2. Make a willful or intentional misstatement on any license application or other document required to be filed in connection with an application for a license.

(14)(a) The Division of Risk Management of the Department of Insurance shall provide coverage through the Department of Health and Rehabilitative Services to any person who owns or operates a family foster home solely for the Department of Health and Rehabilitative Services and who is licensed to provide family foster home care in her or his place of residence. The coverage shall be provided from the general liability account of the Florida Casualty Insurance Risk Management Trust Fund, and the coverage shall be primary. The coverage is limited to general liability claims arising from the provision of family foster home care pursuant to an agreement with the department and pursuant to guidelines established through policy, rule, or statute. Coverage shall be limited as provided in ss. 284.38 and 284.385, and

the exclusions set forth therein, together with other exclusions as may be set forth in the certificate of coverage issued by the trust fund, shall apply. A person covered under the general liability account pursuant to this subsection shall immediately notify the Division of Risk Management of the Department of Insurance of any potential or actual claim.

Section 1019. Paragraph (a) of subsection (12) of section 409.176, Florida Statutes (1996 Supplement), is amended to read:

409.176 Registration of residential child-caring agencies and family foster homes.—

(12) It is unlawful for any person or facility to:

(a) Provide continuing full-time care for or to receive or place a child apart from her or his parents in a residential group care facility or a family foster home without a valid certificate of registration issued by the qualified association if such certificate is required by subsection (1).

A first violation of paragraph (a), paragraph (b), paragraph (c), or paragraph (d) is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A second or subsequent violation of paragraph (a), paragraph (b), paragraph (c), or paragraph (d) is a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. A violation of paragraph (e) is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 1020. Subsection (2) of section 409.2561, Florida Statutes (1996 Supplement), is amended to read:

409.2561 Public assistance payments; reimbursement of obligation to department; assignment of rights; subrogation; medical and health insurance information.—

(2)(a) By accepting public assistance, the recipient assigns to the department any right, title, and interest to support the recipient may be owed:

1. From any other person up to the amount of public assistance paid where no court order has been entered, or where there is a court order it is limited to the amount provided by such court order;

2. On the recipient's ~~his~~ own behalf or in behalf of another family member for whom the recipient is receiving assistance; and

3. At the time that the assignment becomes effective by operation of law.

(b) The recipient appoints the department as her or his attorney in fact to act in her or his name, place, and stead to perform specific acts relating to support, including, but not limited to:

1. Endorsing any draft, check, money order, or other negotiable instrument representing support payments which are received on behalf of the dependent child as reimbursement for the public assistance moneys previously or currently paid;

2. Compromising claims;
3. Pursuing civil and criminal enforcement of support obligations; and
4. Executing verified complaints for the purpose of instituting an action for the determination of paternity of a child born, or to be born, out of wedlock.

Section 1021. Paragraph (b) of subsection (4) and subsection (7) of section 409.2598, Florida Statutes (1996 Supplement), are amended to read:

409.2598 Suspension or denial of new or renewal licenses; registrations; certifications.—

(4) If the obligor fails to pay the delinquency or reach an agreeable payment arrangement within 30 days following completion of service of the notice of the delinquency, the Title IV-D agency shall send a second notice to the obligor stating that the obligor has 30 days to pay the delinquency or reach an agreement to pay the delinquency with the Title IV-D agency. If the obligor fails to respond to either notice from the Title IV-D agency or if the obligor fails to pay the delinquency or reach an agreement to pay the delinquency after the second notice, the Title IV-D agency may petition the court which entered the support order or the court which is enforcing the support order to deny the application for the license or certificate or to suspend the license or certificate of the obligor. However, no petition may be filed until the Title IV-D agency has exhausted all other available remedies. The court may find that it would be inappropriate to deny a license or suspend a license or certificate if:

(b) The obligor demonstrates that he or she has made a good faith effort to reach an agreement with the Title IV-D agency.

The court may not deny or suspend a license or certificate if the court determines that an alternative remedy is available to the Title IV-D agency which is likely to accomplish the objective of collecting the delinquency. If the obligor fails in the defense of a petition for denial or suspension, the court which entered the support order or the court which is enforcing the support order shall enter an order to deny the application for the license or certification or to suspend the license or certification of the obligor. The court shall order the obligor to surrender the license or certification to the Title IV-D agency, which will return the license or certification and a copy of the order of suspension to the appropriate department or licensing entity.

(7) Notice shall be served under this section by mailing it by certified mail, return receipt requested, to the obligor at his or her last address of record with the local depository. If the obligor has no address of record with the local depository, or if the last address of record with the local depository is incorrect, service shall be by publication as provided in chapter 49. When service of the notice is made by mail, service is complete upon the receipt of the notice by the obligor.

Section 1022. Paragraph (c) of subsection (3) of section 409.9081, Florida Statutes (1996 Supplement), is amended to read:

409.9081 Copayments.—

(3) In accordance with federal regulations, the agency shall not require copayments of the following Medicaid recipients:

(c) Any individual who is an inpatient in a hospital, long-term care facility, or other medical institution if, as a condition of receiving services in the institution, that individual is required to spend all but a minimal amount of her or his income required for personal needs for medical care costs.

Section 1023. Subsection (5), paragraphs (b), (c), and (d) of subsection (6), paragraph (a) of subsection (7), paragraphs (a), (b), (d), (f), (g), and (h) of subsection (12), and subsections (14), (18), and (19) of section 409.910, Florida Statutes (1996 Supplement), are amended to read:

409.910 Responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable.—

(5) An applicant, recipient, or legal representative shall inform the department of any rights the applicant or recipient has to third-party benefits and shall inform the department of the name and address of any person that is or may be liable to provide third-party benefits. When the department provides, pays for, or becomes liable for medical services provided by a hospital, the recipient receiving such medical services or his or her legal representative shall also provide the information as to third-party benefits, as defined in this section, to the hospital, which shall provide notice thereof to the department in a manner specified by the department.

(6) When the department provides, pays for, or becomes liable for medical care under the Medicaid program, it has the following rights, as to which the department may assert independent principles of law, which shall nevertheless be construed together to provide the greatest recovery from third-party benefits:

(b) The department is automatically subrogated to any rights that an applicant, recipient, or legal representative has to any third-party benefit for the full amount of medical assistance provided by Medicaid. Recovery pursuant to the subrogation rights created hereby shall not be reduced, prorated, or applied to only a portion of a judgment, award, or settlement, but is to provide full recovery by the department from any and all third-party benefits. Equities of a recipient, his or her legal representative, a recipient's creditors, or health care providers shall not defeat, reduce, or prorate recovery by the department as to its subrogation rights granted under this paragraph.

(c) By applying for or accepting medical assistance, an applicant, recipient, or legal representative automatically assigns to the department any right, title, and interest such person has to any third-party benefit, excluding any Medicare benefit to the extent required to be excluded by federal law.

1. The assignment granted under this paragraph is absolute, and vests legal and equitable title to any such right in the department, but not in excess of the amount of medical assistance provided by the department.

2. The department is a bona fide assignee for value in the assigned right, title, or interest, and takes vested legal and equitable title free and clear of latent equities in a third person. Equities of a recipient, the recipient's ~~his~~ legal representative, his or her creditors, or health care providers shall not defeat or reduce recovery by the department as to the assignment granted under this paragraph.

3. By accepting medical assistance, the recipient grants to the department the limited power of attorney to act in his or her name, place, and stead to perform specific acts with regard to third-party benefits, the recipient's ~~his~~ assent being deemed to have been given, including:

a. Endorsing any draft, check, money order, or other negotiable instrument representing third-party benefits that are received on behalf of the recipient as a third-party benefit.

b. Compromising claims to the extent of the rights assigned.

(d) The department is entitled to, and has, an automatic lien for the full amount of medical assistance provided by Medicaid to or on behalf of the recipient for medical care furnished as a result of any covered injury or illness for which a third party is or may be liable, upon the collateral, as defined in s. 409.901.

1. The lien attaches automatically when a recipient first receives treatment for which the department may be obligated to provide medical assistance under the Medicaid program. The lien is perfected automatically at the time of attachment.

2. The department is authorized to file a verified claim of lien. The claim of lien shall be signed by an authorized employee of the department, and shall be verified as to the employee's knowledge and belief. The claim of lien may be filed and recorded with the clerk of the circuit court in the recipient's last known county of residence or in any county deemed appropriate by the department. The claim of lien, to the extent known by the department, shall contain:

a. The name and last known address of the person to whom medical care was furnished.

b. The date of injury.

c. The period for which medical assistance was provided.

d. The amount of medical assistance provided or paid, or for which Medicaid is otherwise liable.

e. The names and addresses of all persons claimed by the recipient to be liable for the covered injuries or illness.

3. The filing of the claim of lien pursuant to this section shall be notice thereof to all persons.

4. If the claim of lien is filed within 1 year after the later of the date when the last item of medical care relative to a specific covered injury or illness was paid, or the date of discovery by the department of the liability of any third party, or the date of discovery of a cause of action against a third party brought by a recipient or his or her legal representative, record notice shall relate back to the time of attachment of the lien.

5. If the claim of lien is filed after 1 year after the later of the events specified in subparagraph 4., notice shall be effective as of the date of filing.

6. Only one claim of lien need be filed to provide notice as set forth in this paragraph and shall provide sufficient notice as to any additional or after-paid amount of medical assistance provided by Medicaid for any specific covered injury or illness. The department may, in its discretion, file additional, amended, or substitute claims of lien at any time after the initial filing, until the department has been repaid the full amount of medical assistance provided by Medicaid or otherwise has released the liable parties and recipient.

7. No release or satisfaction of any cause of action, suit, claim, counterclaim, demand, judgment, settlement, or settlement agreement shall be valid or effectual as against a lien created under this paragraph, unless the department joins in the release or satisfaction or executes a release of the lien. An acceptance of a release or satisfaction of any cause of action, suit, claim, counterclaim, demand, or judgment and any settlement of any of the foregoing in the absence of a release or satisfaction of a lien created under this paragraph shall prima facie constitute an impairment of the lien, and the department is entitled to recover damages on account of such impairment. In an action on account of impairment of a lien, the department may recover from the person accepting the release or satisfaction or making the settlement the full amount of medical assistance provided by Medicaid. Nothing in this section shall be construed as creating a lien or other obligation on the part of an insurer which in good faith has paid a claim pursuant to its contract without knowledge or actual notice that the department has provided medical assistance for the recipient related to a particular covered injury or illness. However, notice or knowledge that an insured is, or has been a Medicaid recipient within 1 year from the date of service for which a claim is being paid creates a duty to inquire on the part of the insurer as to any injury or illness for which the insurer intends or is otherwise required to pay benefits.

8. The lack of a properly filed claim of lien shall not affect the department's assignment or subrogation rights provided in this subsection, nor shall it affect the existence of the lien, but only the effective date of notice as provided in subparagraph 5.

9. The lien created by this paragraph is a first lien and superior to the liens and charges of any provider, and shall exist for a period of 7 years, if recorded, after the date of recording; and shall exist for a period of 7 years after the date of attachment, if not recorded. If recorded, the lien may be extended for one additional period of 7 years by rerecording the claim of lien within the 90-day period preceding the expiration of the lien.

10. The clerk of the circuit court for each county in the state shall endorse on a claim of lien filed under this paragraph the date and hour of filing and shall record the claim of lien in the official records of the county as for other records received for filing. The clerk shall receive as his or her fee for filing and recording any claim of lien or release of lien under this paragraph the total sum of \$2. Any fee required to be paid by the department shall not be required to be paid in advance of filing and recording, but may be billed to the department after filing and recording of the claim of lien or release of lien.

11. After satisfaction of any lien recorded under this paragraph, the department shall, within 60 days after satisfaction, either file with the appropriate clerk of the circuit court or mail to any appropriate party, or counsel representing such party, if represented, a satisfaction of lien in a form acceptable for filing in Florida.

(7) The department shall recover the full amount of all medical assistance provided by Medicaid on behalf of the recipient to the full extent of third-party benefits.

(a) Recovery of such benefits shall be collected directly from:

1. Any third party;
2. The recipient or legal representative, if he or she has received third-party benefits;
3. The provider of a recipient's medical services if third-party benefits have been recovered by the provider; notwithstanding any provision of this section, to the contrary, however, no provider shall be required to refund or pay to the department any amount in excess of the actual third-party benefits received by the provider from a third-party payor for medical services provided to the recipient; or
4. Any person who has received the third-party benefits.

(12) The department may, as a matter of right, in order to enforce its rights under this section, institute, intervene in, or join any legal or administrative proceeding in its own name in one or more of the following capacities: individually, as subrogee of the recipient, as assignee of the recipient, or as lienholder of the collateral.

(a) If either the recipient, or his or her legal representative, or the department brings an action against a third party, the recipient, or the recipient's ~~his~~ legal representative, or the department, or their attorneys, shall, within 30 days after filing the action, provide to the other written notice, by personal delivery or registered mail, of the action, the name of the court in which the case is brought, the case number of such action, and a copy of the pleadings. If an action is brought by either the department, or the recipient or the recipient's ~~his~~ legal representative, the other may, at any time before trial on the merits, become a party to, or shall consolidate his or her action with the other if brought independently. Unless waived by the other, the recipient, or his or her legal representative, or the department shall provide

notice to the other of the intent to dismiss at least 21 days prior to voluntary dismissal of an action against a third party. Notice to the department shall be sent to an address set forth by rule. Notice to the recipient or his or her legal representative, if represented by an attorney, shall be sent to the attorney, and, if not represented, then to the last known address of the recipient or his or her legal representative. The provisions of this subsection shall not apply to any actions brought pursuant to subsection (9), and in any such action, no notice to recipients is required, and the recipients shall have no right to become a party to any action brought under such subsection.

(b) An action by the department to recover damages in tort under this subsection, which action is derivative of the rights of the recipient or his or her legal representative, shall not constitute a waiver of sovereign immunity pursuant to s. 768.14.

(d) No judgment, award, or settlement in any action by a recipient or his or her legal representative to recover damages for injuries or other third-party benefits, when the department has an interest, shall be satisfied without first giving the department notice and a reasonable opportunity to file and satisfy its lien, and satisfy its assignment and subrogation rights or proceed with any action as permitted in this section.

(f) Notwithstanding any provision in this section to the contrary, in the event of an action in tort against a third party in which the recipient or his or her legal representative is a party and in which the amount of any judgment, award, or settlement from third-party benefits, excluding medical coverage as defined in subparagraph 4., after reasonable costs and expenses of litigation, is an amount equal to or less than 200 percent of the amount of medical assistance provided by Medicaid less any medical coverage paid or payable to the department, then distribution of the amount recovered shall be as follows:

1. Any fee for services of an attorney retained by the recipient or his or her legal representative shall not exceed an amount equal to 25 percent of the recovery, after reasonable costs and expenses of litigation, from the judgment, award, or settlement.

2. After attorney's fees, two-thirds of the remaining recovery shall be designated for past medical care and paid to the department for medical assistance provided by Medicaid.

3. The remaining amount from the recovery shall be paid to the recipient.

4. For purposes of this paragraph, "medical coverage" means any benefits under health insurance, a health maintenance organization, a preferred provider arrangement, or a prepaid health clinic, and the portion of benefits designated for medical payments under coverage for workers' compensation, personal injury protection, and casualty.

(g) In the event that the recipient, his or her legal representative, or the recipient's ~~his~~ estate brings an action against a third party, notice of institution of legal proceedings, notice of settlement, and all other notices required by this section or by rule shall be given to the department, in Tallahassee,

in a manner set forth by rule. All such notices shall be given by the attorney retained to assert the recipient's or legal representative's claim, or, if no attorney is retained, by the recipient, the recipient's ~~his~~ legal representative, or his or her estate.

(h) Except as otherwise provided in this section, actions to enforce the rights of the department under this section shall be commenced within 5 years after the date a cause of action accrues, with the period running from the later of the date of discovery by the department of a case filed by a recipient or his or her legal representative, or of discovery of any judgment, award, or settlement contemplated in this section, or of the provision of medical assistance to a recipient. Each item of expense provided by the agency shall be considered to constitute a separate cause of action for purposes of this subsection. The defense of statute of repose shall not apply to any action brought under this section by the agency. Nothing in this paragraph affects or prevents a proceeding to enforce a lien during the existence of the lien as set forth in subparagraph (6)(c)9.

(14) No action of the recipient shall prejudice the rights of the department under this section. No settlement, agreement, consent decree, trust agreement, annuity contract, pledge, security arrangement, or any other device, hereafter collectively referred to in this subsection as a "settlement agreement," entered into or consented to by the recipient or his or her legal representative shall impair the department's rights. However, in a structured settlement, no settlement agreement by the parties shall be effective or binding against the department for benefits accrued without the express written consent of the department or an appropriate order of a court having personal jurisdiction over the department.

(18) A recipient or his or her legal representative or any person representing, or acting as agent for, a recipient or ~~the recipient's~~ his legal representative, who has notice, excluding notice charged solely by reason of the recording of the lien pursuant to paragraph (6)(d), or who has actual knowledge of the department's rights to third-party benefits under this section, who receives any third-party benefit or proceeds therefrom for a covered illness or injury, is required either to pay the department the full amount of the third-party benefits, but not in excess of the total medical assistance provided by Medicaid, or to place the full amount of the third-party benefits in a trust account for the benefit of the department pending judicial or administrative determination of the department's right thereto. Proof that any such person had notice or knowledge that the recipient had received medical assistance from Medicaid, and that third-party benefits or proceeds therefrom were in any way related to a covered illness or injury for which Medicaid had provided medical assistance, and that any such person knowingly obtained possession or control of, or used, third-party benefits or proceeds and failed either to pay the department the full amount required by this section or to hold the full amount of third-party benefits or proceeds in trust pending judicial or administrative determination, unless adequately explained, gives rise to an inference that such person knowingly failed to credit the state or its agent for payments received from social security, insurance, or other sources, pursuant to s. 414.39(4)(b), and acted with the intent set forth in s. 812.014(1).

(a) The department is authorized to investigate and to request appropriate officers or agencies of the state to investigate suspected criminal violations or fraudulent activity related to third-party benefits, including, without limitation, ss. 409.325 and 812.014. Such requests may be directed, without limitation, to the Medicaid Fraud Control Unit of the Office of the Attorney General, or to any state attorney. Pursuant to s. 409.913, the Attorney General has primary responsibility to investigate and control Medicaid fraud.

(b) In carrying out duties and responsibilities related to Medicaid fraud control, the department may subpoena witnesses or materials within or outside the state and, through any duly designated employee, administer oaths and affirmations and collect evidence for possible use in either civil or criminal judicial proceedings.

(c) All information obtained and documents prepared pursuant to an investigation of a Medicaid recipient, the recipient's legal representative, or any other person relating to an allegation of recipient fraud or theft is confidential and exempt from s. 119.07(1):

1. Until such time as the department takes final agency action;
2. Until such time as the Attorney General refers the case for criminal prosecution;
3. Until such time as an indictment or criminal information is filed by a state attorney in a criminal case; or
4. At all times if otherwise protected by law.

(19) In cases of suspected criminal violations or fraudulent activity, on the part of any person including a liable third party, the department is authorized to take any civil action permitted at law or equity to recover the greatest possible amount, including without limitation, treble damages under s. 772.73. In any action in which the recipient has no right to intervene, or does not exercise his or her right to intervene, any amounts recovered under this subsection shall be the property of the agency, and the recipient shall have no right or interest in such recovery.

Section 1024. Section 409.9123, Florida Statutes (1996 Supplement), is amended to read:

409.9123 Quality-of-care reporting.—In order to promote competition between Medicaid managed care plans and MediPass based on quality-of-care indicators, the agency shall annually develop and publish a set of measures of managed care plan performance. This information shall be made available to each Medicaid recipient who makes a choice of a managed care plan in her or his area. This information shall be easily understandable to the Medicaid recipient and shall use nationally recognized standards wherever possible. In formulating this information, the agency shall take into account at least the following:

- (1) The recommendations of the National Committee for Quality Assurance Medicaid HEDIS Task Force.

(2) Requirements and recommendations of the Health Care Financing Administration.

(3) Recommendations of the managed care industry.

Section 1025. Paragraph (b) of subsection (1) of section 409.913, Florida Statutes (1996 Supplement), is amended to read:

409.913 Oversight of the integrity of the Medicaid program.—The agency shall operate a program to oversee the activities of Florida Medicaid recipients, and providers and their representatives, to ensure that fraudulent and abusive behavior and neglect of recipients occur to the minimum extent possible, and to recover overpayments and impose sanctions as appropriate.

(1) For the purposes of this section, the term:

(b) “Fraud” means an intentional deception or misrepresentation made by a person with the knowledge that the deception results in unauthorized benefit to herself or himself or another person. The term includes any act that constitutes fraud under applicable federal or state law.

Section 1026. Section 410.037, Florida Statutes (1996 Supplement), is amended to read:

410.037 Confidentiality of information.—Information about disabled adults who receive services under ss. 410.031-410.036 which is received through files, reports, inspection, or otherwise, by the department or by authorized departmental employees, by persons who volunteer services, or by persons who provide services to disabled adults under ss. 410.031-410.036 through contracts with the department is confidential and exempt from the provisions of s. 119.07(1). The information may not be disclosed publicly in a manner that identifies a disabled adult, unless the person or his or her legal guardian provides written consent.

Section 1027. Section 410.605, Florida Statutes (1996 Supplement), is amended to read:

410.605 Confidentiality of information.—Information about disabled adults who receive services under ss. 410.601-410.606 which is received through files, reports, inspections, or otherwise, by the department or by authorized departmental employees, by persons who volunteer services, or by persons who provide services to disabled adults under ss. 410.601-410.606 through contracts with the department is confidential and exempt from the provisions of s. 119.07(1). Such information may not be disclosed publicly in such a manner as to identify a disabled adult, unless the disabled adult or her or his legal guardian provides written consent.

Section 1028. Subsection (2) of section 413.011, Florida Statutes (1996 Supplement), is amended to read:

413.011 Division of Blind Services, internal organizational structure; Advisory Council for the Blind.—

(2) There is hereby created in the Department of Labor and Employment Security the Advisory Council for the Blind. The council shall be advisory to the director of the Division of Blind Services, and the division shall provide necessary staff assistance to the council. The council shall consist of nine members appointed by the Secretary of Labor and Employment Security. At least three members shall be blind persons. Appointment shall be for terms of 4 years. No person or persons in the employ of the state shall be eligible for membership on the council. Each member of the council shall have been a citizen and elector of this state for not less than 5 years immediately preceding the date of his or her appointment. Council members may be replaced because of poor attendance or lack of participation in the work of the council. A vacancy shall be filled for the remainder of the unexpired term in the same manner as an initial appointment. The members shall elect from among the membership a chairperson and a vice chairperson who shall each serve for a term of 1 year. No member shall be elected to consecutive terms as chairperson. Members shall receive no compensation for their services, but shall be reimbursed for travel expenses as provided in s. 112.061. The council shall meet at the call of its chairperson, at the request of a majority of its membership, at the request of the division, or at such times as may be prescribed by its rules.

Section 1029. Subsection (2) of section 413.012, Florida Statutes (1996 Supplement), is amended to read:

413.012 Confidential records disclosure prohibited; exemptions.—

(2) It is unlawful for any person to disclose, authorize the disclosure, solicit, receive, or make use of any list of names and addresses or any record containing any information set forth in subsection (1) and maintained in the division. The prohibition provided for in this subsection shall not apply to the use of such information for purposes directly connected with the administration of the vocational rehabilitation program or with the monthly dispatch to the Division of Driver Licenses of the Department of Highway Safety and Motor Vehicles of the name in full, place and date of birth, sex, social security number, and resident address of individuals with central visual acuity 20/200 or less in the better eye with correcting glasses, or a disqualifying field defect in which the peripheral field has contracted to such an extent that the widest diameter or visual field subtends an angular distance no greater than 20 degrees. When requested in writing by an applicant or client, or her or his representative, the Division of Blind Services shall release confidential information to the applicant or client or her or his representative.

Section 1030. Paragraphs (a) and (f) of subsection (1) of section 413.341, Florida Statutes (1996 Supplement), are amended to read:

413.341 Applicant and client records; confidential and privileged.—

(1) All oral and written records, information, letters, and reports received, made, or maintained by the division relative to any client or applicant are privileged, confidential, and exempt from the provisions of s. 119.07(1). Any person who discloses or releases such records, information, or communications in violation of this section commits a misdemeanor of the

second degree, punishable as provided in s. 775.082 or s. 775.083. Such records may not be released except that:

(a) Records may be released to the client or applicant or his or her representative upon receipt of a written waiver from the client or applicant. Medical, psychological, or other information that the division believes may be harmful to a client or applicant may not be released directly to him or her, but must be provided through his or her designated representative.

(f) The division may also release personal information about an applicant or individual receiving services in order to protect him or her or others when he or she poses a threat to his or her own safety or to the safety of others and shall, upon official request, release such information to law enforcement agencies investigating the commission of a crime.

Section 1031. Paragraph (b) of subsection (2) of section 414.095, Florida Statutes (1996 Supplement), is amended to read:

414.095 Determining eligibility for the WAGES Program.—

(2) ADDITIONAL ELIGIBILITY REQUIREMENTS.—

(b) The following members of a family are eligible to participate in the program if all eligibility requirements are met:

1. A minor child who resides with a custodial parent or other adult caretaker relative.

2. The parent of a minor child with whom the child resides.

3. The caretaker relative with whom the minor child resides who chooses to have her or his needs and income included in the family.

4. Unwed minor children and their children if the unwed minor child lives at home or in an adult-supervised setting and if temporary assistance is paid to an alternative payee.

5. A pregnant woman.

Section 1032. Paragraph (a) of subsection (2) of section 414.115, Florida Statutes (1996 Supplement), is amended to read:

414.115 Limited assistance for children born to families receiving assistance.—

(2) Subsection (1) shall not apply:

(a) To a program participant who is a victim of rape or incest if the victim ~~she~~ files a police report on the rape or incest within 30 days after the incident;

Section 1033. Section 414.26, Florida Statutes (1996 Supplement), is amended to read:

414.26 Court appointed guardian unnecessary.—It is unnecessary for any incompetent person entitled to public assistance payments, as provided by this chapter, to have a court appointed guardian in order to receive such payments if said incompetent person is living in the household with an adult family member of his family or there is a responsible person who will act in his or her behalf.

Section 1034. Section 414.27, Florida Statutes (1996 Supplement), is amended to read:

414.27 Public assistance; payment on death.—

(1) Upon the death of any person receiving public assistance through the Department of Health and Rehabilitative Services, all public assistance accrued to such person from the date of last payment to date of death shall be paid to the person who shall have been designated by her or him on a form prescribed by the department and filed with the department during the lifetime of the person making such designation. In the event no designation is made, or the person so designated is no longer living or cannot be found, then payment shall be made to such person as may be designated by the circuit judge of the county where the public assistance recipient resided. Designation by the circuit judge may be made on a form provided by the department or by letter or memorandum to the Comptroller. No filing or recording of the designation shall be required, and the circuit judge shall receive no compensation for such service. If a warrant has not been issued and forwarded prior to notice by the department of the recipient's death, upon notice thereof, the department shall promptly requisition the Comptroller to issue a warrant in the amount of the accrued assistance payable to the person designated to receive it and shall attach to the requisition the original designation of the deceased recipient, or if none, the designation made by the circuit judge, as well as a notice of death. The Comptroller shall issue a warrant in the amount payable.

(2) If a warrant has been issued and not cashed by the recipient payee prior to her or his death, such warrant shall be promptly returned to the department, together with notice of the death of the recipient. The original warrant shall be endorsed on the back by an authorized employee of the department. The endorsement shall be on a form prescribed by the department and approved by the Comptroller which shall contain the name of the deceased recipient, a statement of the recipient's ~~his~~ death, and the date thereof and state that it is payable to the order of the designated beneficiary, without recourse. The form shall be signed by the authorized employee or employees of the department, and thereupon such warrant shall be payable to the designated beneficiary as fully and completely as if made payable to her or him when issued. The department shall furnish to the Comptroller each month a list of such deceased recipients, the designated beneficiaries or persons to whom such warrants are endorsed, and a description of such warrants as herein provided. The department shall cause all persons receiving public assistance to make the designations as soon as conveniently may be, and shall preserve such designations in a safe place for use.

Section 1035. Subsections (1) and (3) of section 414.28, Florida Statutes (1996 Supplement), are amended to read:

414.28 Public assistance payments to constitute debt of recipient.—

(1) CLAIMS.—The acceptance of public assistance creates a debt of the person accepting assistance, which debt is enforceable only after the death of the recipient. The debt thereby created is enforceable only by claim filed against the estate of the recipient after his or her death or by suit to set aside a fraudulent conveyance, as defined in subsection (3). After the death of the recipient and within the time prescribed by law, the department may file a claim against the estate of the recipient for the total amount of public assistance paid to or for the benefit of such recipient, reimbursement for which has not been made. Claims so filed shall take priority as class 7 claims as provided by s. 733.707(1)(g).

(3) FRAUDULENT CONVEYANCE.—Any person who transfers or encumbers his or her property for an inadequate consideration with the intent of defeating or hindering the claim of the department for reimbursement shall have made a fraudulent conveyance, and such transfer or encumbrance is void and of no effect as against the claim of the department if the department institutes a suit to set aside the conveyance within 1 year after the death of the debtor. A transfer or encumbrance for an inadequate consideration made within 6 months immediately preceding the death of the transferor is presumed to have been made with the intent of defeating or hindering the claim of the department. This section does not void any conveyance or encumbrance that is made upon and for good consideration and bona fide, as to any person or persons or bodies, politic or corporate.

Section 1036. Paragraph (a) of subsection (2) of section 414.29, Florida Statutes (1996 Supplement), is amended to read:

414.29 Public assistance rolls open.—

(2)(a) It is unlawful for any person, for herself or himself, or for any other person, body, association, firm, corporation, group, or agency, to solicit, disclose, receive, or make use of, or to authorize, knowingly permit, participate in or acquiesce in the use of, any of the lists or parts of such lists of names of public assistance recipients herein required to be filed for commercial or political purposes of any nature.

Section 1037. Paragraph (b) of subsection (1), paragraph (a) of subsection (3), and paragraph (a) of subsection (4) of section 414.39, Florida Statutes (1996 Supplement), are amended to read:

414.39 Fraud.—

(1) Any person who knowingly:

(b) Fails to disclose a change in circumstances in order to obtain or continue to receive under any such program aid or benefits to which he or she is not entitled or in an amount larger than that to which he or she is entitled,

or who knowingly aids and abets another person in the commission of any such act is guilty of a crime and shall be punished as provided in subsection (5).

(3) Any person having duties in the administration of a state or federally funded assistance program or in the distribution of benefits, or authorizations or identifications to obtain benefits, under a state or federally funded assistance program and who:

(a) Fraudulently misappropriates, attempts to misappropriate, or aids and abets in the misappropriation of, a food stamp, an authorization for food stamps, a food stamp identification card, a certificate of eligibility for prescribed medicine, a Medicaid identification card, or assistance from any other state or federally funded program with which he or she has been entrusted or of which he or she has gained possession by virtue of his or her position, or who knowingly fails to disclose any such fraudulent activity, or

is guilty of a crime and shall be punished as provided in subsection (5).

(4) Any person who:

(a) Knowingly files, attempts to file, or aids and abets in the filing of, a claim for services to a recipient of benefits under any state or federally funded assistance program for services which were not rendered; knowingly files a false claim or a claim for nonauthorized items or services under such a program; or knowingly bills the recipient of benefits under such a program, or his or her family, for an amount in excess of that provided for by law or regulation, or

is guilty of a crime and shall be punished as provided in subsection (5).

Section 1038. Subsection (1) of section 414.41, Florida Statutes (1996 Supplement), is amended to read:

414.41 Recovery of payments made due to mistake or fraud.—

(1) Whenever it becomes apparent that any person or provider has received any assistance or benefits under this chapter to which she or he is not entitled, through either simple mistake or fraud, the department shall take all necessary steps to recover the overpayment. The department may make appropriate settlements and shall establish a policy and cost-effective rules to be used in the recovery of such overpayments.

Section 1039. Subsection (2) of section 414.55, Florida Statutes (1996 Supplement), is amended to read:

414.55 Implementation of ch. 96-175.—Following the effective date of this act:

(2) The programs affected by this act shall continue to operate under the provisions of law that would be in effect in the absence of this act, until such time as the Governor informs the Speaker of the House of Representatives and the President of the Senate of his or her intention to implement provisions of this act. Notice of intent to implement provisions of this act shall be given to the Speaker of the House of Representatives and the President of the Senate in writing and shall be delivered at least 14 consecutive days prior to such action.

Section 1040. Paragraph (j) of subsection (9) and subsection (11) of section 415.503, Florida Statutes (1996 Supplement), are amended to read:

415.503 Definitions of terms used in ss. 415.502-415.514.—As used in ss. 415.502-415.514:

(9) “Harm” to a child’s health or welfare can occur when the parent or other person responsible for the child’s welfare:

(j) Negligently fails to protect a child in his or her care from inflicted physical, mental, or sexual injury caused by the acts of another.

(11) “Mental injury” means an injury to the intellectual or psychological capacity of a child as evidenced by a discernible and substantial impairment in the ability to function within the normal range of performance and behavior, with due regard to his or her culture.

Section 1041. Subsection (3) of section 415.504, Florida Statutes (1996 Supplement), is amended to read:

415.504 Mandatory reports of child abuse or neglect; mandatory reports of death; central abuse hotline.—

(3) Any person required to report or investigate cases of suspected child abuse or neglect who has reasonable cause to suspect that a child died as a result of child abuse or neglect shall report his or her suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation pursuant to s. 406.11 and shall report his or her findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements provided for in s. 415.51.

Section 1042. Paragraphs (h) and (i) of subsection (1) of section 415.505, Florida Statutes (1996 Supplement), are amended to read:

415.505 Child protective investigations; institutional child abuse or neglect investigations.—

(1)

(h) In a child protective investigation or a criminal investigation, when the initial interview with the child is conducted at school, the department or the law enforcement agency may allow, notwithstanding the provisions of s. 39.411(4), a school instructional staff member who is known by the child to be present during the initial interview if:

1. The department or law enforcement agency believes that the school instructional staff member could enhance the success of the interview by his or her presence; and

2. The child requests or consents to the presence of the school instructional staff member at the interview.

School instructional staff may only be present when authorized by this subsection. Information received during the interview or from any other source regarding the alleged abuse or neglect of the child shall be confidential and exempt from the provisions of s. 119.07(1), except as otherwise provided by court order. A separate record of the investigation of the abuse, abandonment, or neglect shall not be maintained by the school or school instructional staff member. Violation of this subsection constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(i) Within 15 days of the completion of the investigation of cases reported to him or her pursuant to this section, the state attorney shall report his or her findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 1043. Paragraphs (d) and (g) of subsection (1) of section 415.5055, Florida Statutes (1996 Supplement), are amended to read:

415.5055 Child protection teams; services; eligible cases.—The department shall develop, maintain, and coordinate the services of one or more multidisciplinary child protection teams in each of the service districts of the department. Such teams may be composed of representatives of appropriate health, mental health, social service, legal service, and law enforcement agencies.

(1) The department shall utilize and convene the teams to supplement the assessment and protective supervision activities of the children, youth, and families program of the department. Nothing in this section shall be construed to remove or reduce the duty and responsibility of any person to report pursuant to s. 415.504 all suspected or actual cases of child abuse or neglect or sexual abuse of a child. The role of the teams shall be to support activities of the program and to provide services deemed by the teams to be necessary and appropriate to abused and neglected children upon referral. The specialized diagnostic assessment, evaluation, coordination, consultation, and other supportive services that a child protection team shall be capable of providing include, but are not limited to, the following:

(d) Such psychological and psychiatric diagnosis and evaluation services for the child or the child's ~~his~~ parent or parents, guardian or guardians, or other caregivers, or any other individual involved in a child abuse or neglect case, as the team may determine to be needed.

(g) Case staffings to develop, implement, and monitor treatment plans for children whose cases have been referred to the team. A child protection team may provide consultation with respect to a child who has not been referred to the team, but who is alleged or is shown to be abused, which consultation shall be provided at the request of a representative of the children, youth, and families program or at the request of any other professional involved with a child or the child's ~~his~~ parent or parents, guardian or guardians, or other caregivers. In every such child protection team case staffing, consultation, or staff activity involving a child, a children, youth, and families program representative shall attend and participate.

In all instances in which a child protection team is providing certain services to abused or neglected children, other offices and units of the department shall avoid duplicating the provision of those services.

Section 1044. Paragraph (a) of subsection (1), paragraph (h) of subsection (2), and subsection (4) of section 415.51, Florida Statutes (1996 Supplement), are amended to read:

415.51 Confidentiality of reports and records in cases of child abuse or neglect.—

(1)(a) In order to protect the rights of the child and the child's ~~his~~ parents or other persons responsible for the child's welfare, all records concerning reports of child abuse or neglect, including reports made to the central abuse hotline and all records generated as a result of such reports, shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed except as specifically authorized by ss. 415.502-415.514. Such exemption from s. 119.07(1) applies to information in the possession of those entities granted access as set forth in this section.

(2) Access to such records, excluding the name of the reporter which shall be released only as provided in subsection (9), shall be granted only to the following persons, officials, and agencies:

(h) Any appropriate official of the department responsible for:

1. Administration or supervision of the department's program for the prevention, investigation, or treatment of child abuse, abandonment, or neglect when carrying out his or her official function; or

2. Taking appropriate administrative action concerning an employee of the department alleged to have perpetrated institutional child abuse or neglect.

(4) The name of any person reporting child abuse, abandonment, or neglect may not be released to any person other than employees of the department responsible for child protective services, the central abuse hotline, or the appropriate state attorney without the written consent of the person reporting. This does not prohibit the subpoenaing of a person reporting child abuse, abandonment, or neglect when deemed necessary by the court, the state attorney, or the department, provided the fact that such person made the report is not disclosed. Any person who reports a case of child abuse or neglect may, at the time he or she makes the report, request that the department notify him or her that a child protective investigation occurred as a result of the report. The department shall mail such a notice to the reporter within 10 days after completing the child protective investigation.

Section 1045. Subsections (3) and (4) of section 420.504, Florida Statutes (1996 Supplement), are amended to read:

420.504 Agency; creation, membership, terms, expenses.—

(3) The chair ~~chairman~~ and a vice chair ~~chairman~~ shall be elected annually by the members thereof. Any additional officers, who need not be mem-

bers, as may be deemed necessary by the members of the agency may be designated and elected by the members thereof.

(4) A member of the agency shall receive no compensation for his or her services but shall be entitled to the necessary expenses, including per diem and travel expenses, incurred in the discharge of his or her duties, as provided by law.

Section 1046. Subsection (3) of section 420.9071, Florida Statutes (1996 Supplement), is amended to read:

420.9071 Definitions.—As used in ss. 420.907-420.9079, the term:

(3) “Affordable” means that monthly rents or monthly mortgage payments including taxes and insurance do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for the households as indicated in subsection (19), subsection (20), or subsection (25). However, it is not the intent to limit an individual’s ability to devote more than 30 percent of his or her income for housing, and housing for which a household devotes more than 30 percent of its income shall be deemed affordable if the first mortgage lender is satisfied that the household can afford mortgage payments in excess of the 30 percent benchmark.

Section 1047. Section 430.207, Florida Statutes (1996 Supplement), is amended to read:

430.207 Confidentiality of information.—Information about functionally impaired elderly persons who receive services under ss. 430.201-430.206 which is received through files, reports, inspections, or otherwise, by the department or by authorized departmental employees, by persons who volunteer services, or by persons who provide services to functionally impaired elderly persons under ss. 430.201-430.206 through contracts with the department is confidential and exempt from the provisions of s. 119.07(1). Such information may not be disclosed publicly in such a manner as to identify a functionally impaired elderly person, unless that person or his or her legal guardian provides written consent.

Section 1048. Paragraph (b) of subsection (3) of section 430.501, Florida Statutes (1996 Supplement), is amended to read:

430.501 Alzheimer’s Disease Advisory Committee; research grants.—

(3)

(b)1. The Governor shall appoint members from a broad cross section of public, private, and volunteer sectors. All nominations shall be forwarded to the Governor by the Secretary of Elderly Affairs in accordance with this subsection.

2. Members shall be appointed to 4-year staggered terms in accordance with s. 20.052.

3. The Secretary of Elderly Affairs shall serve as an ex officio member of the committee.

4. The committee shall elect one of its members to serve as chair ~~chairman~~ for a term of 1 year.

5. The committee may establish subcommittees as necessary to carry out the functions of the committee.

6. The committee shall meet quarterly, or as frequently as needed.

7. The Department of Elderly Affairs shall provide staff support to assist the committee in the performance of its duties.

8. Members of the committee and subcommittees shall receive no salary, but are entitled to reimbursement for travel and per diem expenses, as provided in s. 112.061, while performing their duties under this section.

Section 1049. Subsection (2) of section 440.101, Florida Statutes (1996 Supplement), is amended to read:

440.101 Legislative intent; drug-free workplaces.—

(2) If an employer implements a drug-free workplace program in accordance with s. 440.102 which includes notice, education, and procedural requirements for testing for drugs and alcohol pursuant to law or to rules developed by the Agency for Health Care Administration, the employer may require the employee to submit to a test for the presence of drugs or alcohol and, if a drug or alcohol is found to be present in the employee's system at a level prescribed by rule adopted pursuant to this act, the employee may be terminated and forfeits his or her eligibility for medical and indemnity benefits. However, a drug-free workplace program must require the employer to notify all employees that it is a condition of employment for an employee to refrain from reporting to work or working with the presence of drugs or alcohol in his or her body and, if an injured employee refuses to submit to a test for drugs or alcohol, the employee forfeits eligibility for medical and indemnity benefits.

Section 1050. Paragraph (n) of subsection (1), paragraph (a) of subsection (3), and paragraph (b) of subsection (5) of section 440.102, Florida Statutes (1996 Supplement), are amended to read:

440.102 Drug-free workplace program requirements.—The following provisions apply to a drug-free workplace program implemented pursuant to law or to rules adopted by the Agency for Health Care Administration:

(1) DEFINITIONS.—Except where the context otherwise requires, as used in this act:

(n) "Reasonable-suspicion drug testing" means drug testing based on a belief that an employee is using or has used drugs in violation of the employer's policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:

1. Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of a drug.
2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
3. A report of drug use, provided by a reliable and credible source.
4. Evidence that an individual has tampered with a drug test during his or her employment with the current employer.
5. Information that an employee has caused, contributed to, or been involved in an accident while at work.
6. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment.

(3) NOTICE TO EMPLOYEES AND JOB APPLICANTS.—

(a) One time only, prior to testing, an employer shall give all employees and job applicants for employment a written policy statement which contains:

1. A general statement of the employer's policy on employee drug use, which must identify:

a. The types of drug testing an employee or job applicant may be required to submit to, including reasonable-suspicion drug testing or drug testing conducted on any other basis.

b. The actions the employer may take against an employee or job applicant on the basis of a positive confirmed drug test result.

2. A statement advising the employee or job applicant of the existence of this section.

3. A general statement concerning confidentiality.

4. Procedures for employees and job applicants to confidentially report to a medical review officer the use of prescription or nonprescription medications to a medical review officer both before and after being tested.

5. A list of the most common medications, by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. A list of such medications as developed by the Agency for Health Care Administration shall be available to employers through the Division of Workers' Compensation of the Department of Labor and Employment Security.

6. The consequences of refusing to submit to a drug test.

7. A representative sampling of names, addresses, and telephone numbers of employee assistance programs and local drug rehabilitation programs.

8. A statement that an employee or job applicant who receives a positive confirmed test result may contest or explain the result to the medical review officer within 5 working days after receiving written notification of the test result; that if an employee's or job applicant's explanation or challenge is unsatisfactory to the medical review officer, the medical review officer shall report a positive test result back to the employer; and that a person may contest the drug test result pursuant to law or to rules adopted by the Agency for Health Care Administration.

9. A statement informing the employee or job applicant of his or her responsibility to notify the laboratory of any administrative or civil action brought pursuant to this section.

10. A list of all drugs for which the employer will test, described by brand name or common name, as applicable, as well as by chemical name.

11. A statement regarding any applicable collective bargaining agreement or contract and the right to appeal to the Public Employees Relations Commission or applicable court.

12. A statement notifying employees and job applicants of their right to consult with a medical review officer for technical information regarding prescription or nonprescription medication.

(5) PROCEDURES AND EMPLOYEE PROTECTION.—All specimen collection and testing for drugs under this section shall be performed in accordance with the following procedures:

(b) Specimen collection must be documented, and the documentation procedures shall include:

1. Labeling of specimen containers so as to reasonably preclude the likelihood of erroneous identification of test results.

2. A form for the employee or job applicant to provide any information he or she considers relevant to the test, including identification of currently or recently used prescription or nonprescription medication or other relevant medical information. The form must provide notice of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. The providing of information shall not preclude the administration of the drug test, but shall be taken into account in interpreting any positive confirmed test result.

Section 1051. Paragraph (c) of subsection (2), paragraphs (b) and (c) of subsection (4), paragraphs (a), (b), and (d) of subsection (5), paragraphs (c), (d), and (f) of subsection (9), paragraph (a) of subsection (12), and paragraphs (b), (c), (d), and (e) of subsection (13) of section 440.13, Florida Statutes (1996 Supplement), are amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

(2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—

(c) If the employer fails to provide treatment or care required by this section after request by the injured employee, the employee may obtain such treatment at the expense of the employer, if the treatment is compensable and medically necessary. There must be a specific request for the treatment, and the employer or carrier must be given a reasonable time period within which to provide the treatment or care. However, the employee is not entitled to recover any amount personally expended for the treatment or service unless he or she has requested the employer to furnish that treatment or service and the employer has failed, refused, or neglected to do so within a reasonable time or unless the nature of the injury requires such treatment, nursing, and services and the employer or his or her superintendent or foreman, having knowledge of the injury, has neglected to provide the treatment or service.

(4) NOTICE OF TREATMENT TO CARRIER; FILING WITH DIVISION.—

(b) Each medical report or bill obtained or received by the employer, the carrier, or the injured employee, or the attorney for the employer, carrier, or injured employee, with respect to the remedial treatment or care of the injured employee, including any report of an examination, diagnosis, or disability evaluation, must be filed with the Division of Workers' Compensation pursuant to rules adopted by the division. The health care provider shall also furnish to the injured employee or to his or her attorney, on demand, a copy of his or her office chart, records, and reports, and may charge the injured employee an amount authorized by the division for the copies. Each such health care provider shall provide to the division any additional information about the remedial treatment, care, and attendance that the division reasonably requests.

(c) It is the policy for the administration of the workers' compensation system that there be reasonable access to medical information by all parties to facilitate the self-executing features of the law. Notwithstanding the limitations in s. 455.241 and subject to the limitations in s. 381.004, upon the request of the employer, the carrier, or the attorney for either of them, the medical records of an injured employee must be furnished to those persons and the medical condition of the injured employee must be discussed with those persons, if the records and the discussions are restricted to conditions relating to the workplace injury. Any such discussions may be held before or after the filing of a claim without the knowledge, consent, or presence of any other party or his or her agent or representative. A health care provider who willfully refuses to provide medical records or to discuss the medical condition of the injured employee, after a reasonable request is made for such information pursuant to this subsection, shall be subject by the division to one or more of the penalties set forth in paragraph (8)(b).

(5) INDEPENDENT MEDICAL EXAMINATIONS.—

(a) In any dispute concerning overutilization, medical benefits, compensability, or disability under this chapter, the carrier or the employee may select an independent medical examiner. The examiner may be a health care provider treating or providing other care to the employee. An independent

medical examiner may not render an opinion outside his or her area of expertise, as demonstrated by licensure and applicable practice parameters.

(b) Each party is bound by his or her selection of an independent medical examiner and is entitled to an alternate examiner only if:

1. The examiner is not qualified to render an opinion upon an aspect of the employee's illness or injury which is material to the claim or petition for benefits;
2. The examiner ceases to practice in the specialty relevant to the employee's condition;
3. The examiner is unavailable due to injury, death, or relocation outside a reasonably accessible geographic area; or
4. The parties agree to an alternate examiner.

Any party may request, or a judge of compensation claims may require, designation of a division medical advisor as an independent medical examiner. The opinion of the advisors acting as examiners shall not be afforded the presumption set forth in paragraph (9)(c).

(d) If the employee fails to appear for the independent medical examination without good cause and fails to advise the physician at least 24 hours before the scheduled date for the examination that he or she cannot appear, the employee is barred from recovering compensation for any period during which he or she has refused to submit to such examination. Further, the employee shall reimburse the carrier 50 percent of the physician's cancellation or no-show fee unless the carrier that schedules the examination fails to timely provide to the employee a written confirmation of the date of the examination pursuant to paragraph (c) which includes an explanation of why he or she failed to appear. The employee may appeal to a judge of compensation claims for reimbursement when the carrier withholds payment in excess of the authority granted by this section.

(9) EXPERT MEDICAL ADVISORS.—

(c) If there is disagreement in the opinions of the health care providers, if two health care providers disagree on medical evidence supporting the employee's complaints or the need for additional medical treatment, or if two health care providers disagree that the employee is able to return to work, the division may, and the judge of compensation claims shall, upon his or her own motion or within 15 days after receipt of a written request by either the injured employee, the employer, or the carrier, order the injured employee to be evaluated by an expert medical advisor. The opinion of the expert medical advisor is presumed to be correct unless there is clear and convincing evidence to the contrary as determined by the judge of compensation claims. The expert medical advisor appointed to conduct the evaluation shall have free and complete access to the medical records of the employee. An employee who fails to report to and cooperate with such evaluation forfeits entitlement to compensation during the period of failure to report or cooperate.

(d) The expert medical advisor must complete his or her evaluation and issue his or her report to the division or to the judge of compensation claims within 45 days after receipt of all medical records. The expert medical advisor must furnish a copy of the report to the carrier and to the employee.

(f) If the division or a judge of compensation claims determines that the services of a certified expert medical advisor are required to resolve a dispute under this section, the carrier must compensate the advisor for his or her time in accordance with a schedule adopted by the division. The division may assess a penalty not to exceed \$500 against any carrier that fails to timely compensate an advisor in accordance with this section.

(12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM REIMBURSEMENT ALLOWANCES.—

(a) A three-member panel is created, consisting of the Insurance Commissioner, or the Insurance Commissioner's his designee, and two members to be appointed by the Governor, subject to confirmation by the Senate, one member who, on account of present or previous vocation, employment, or affiliation, shall be classified as a representative of employers, the other member who, on account of previous vocation, employment, or affiliation, shall be classified as a representative of employees. The panel shall determine statewide schedules of maximum reimbursement allowances for medically necessary treatment, care, and attendance provided by physicians, hospitals, ambulatory surgical centers, work-hardening programs, pain programs, and durable medical equipment. The maximum reimbursement allowances for inpatient hospital care shall be based on a schedule of per diem rates, to be approved by the three-member panel no later than March 1, 1994, to be used in conjunction with a precertification manual as determined by the division. All compensable charges for hospital outpatient care shall be reimbursed at 75 percent of usual and customary charges. Until the three-member panel approves a schedule of per diem rates for inpatient hospital care and it becomes effective, all compensable charges for hospital inpatient care must be reimbursed at 75 percent of their usual and customary charges. Annually, the three-member panel shall adopt schedules of maximum reimbursement allowances for physicians, hospital inpatient care, hospital outpatient care, ambulatory surgical centers, work-hardening programs, and pain programs. However, the maximum percentage of increase in the individual reimbursement allowance may not exceed the percentage of increase in the Consumer Price Index for the previous year. An individual physician, hospital, ambulatory surgical center, pain program, or work-hardening program shall be reimbursed either the usual and customary charge for treatment, care, and attendance, the agreed-upon contract price, or the maximum reimbursement allowance in the appropriate schedule, whichever is less.

(13) REMOVAL OF PHYSICIANS FROM LISTS OF THOSE AUTHORIZED TO RENDER MEDICAL CARE.—The division shall remove from the list of physicians or facilities authorized to provide remedial treatment, care, and attendance under this chapter the name of any physician or facility found after reasonable investigation to have:

(b) Exceeded the limits of his or her or its professional competence in rendering medical care under this chapter, or to have made materially false statements regarding his or her or its qualifications in his or her application;

(c) Failed to transmit copies of medical reports to the employer or carrier, or failed to submit full and truthful medical reports of all his or her or its findings to the employer or carrier as required under this chapter;

(d) Solicited, or employed another to solicit for himself or herself or itself or for another, professional treatment, examination, or care of an injured employee in connection with any claim under this chapter;

(e) Refused to appear before, or to answer upon request of, the division or any duly authorized officer of the state, any legal question, or to produce any relevant book or paper concerning his or her conduct under any authorization granted to him or her under this chapter;

Section 1052. Paragraphs (d) and (f) of subsection (1), paragraphs (b) and (d) of subsection (2), paragraph (a) of subsection (5), subsections (8) and (9), paragraphs (a) and (c) of subsection (10), and subsection (13) of section 440.15, Florida Statutes (1996 Supplement), are amended to read:

440.15 Compensation for disability.—Compensation for disability shall be paid to the employee, subject to the limits provided in s. 440.12(2), as follows:

(1) PERMANENT TOTAL DISABILITY.—

(d) If an employee who is being paid compensation for permanent total disability becomes rehabilitated to the extent that she or he establishes an earning capacity, the employee ~~he~~ shall be paid, instead of the compensation provided in paragraph (a), benefits pursuant to subsection (3). The division shall adopt rules to enable a permanently and totally disabled employee who may have reestablished an earning capacity to undertake a trial period of reemployment without prejudicing her or his return to permanent total status in the case that such employee is unable to sustain an earning capacity.

(f)1. If permanent total disability results from injuries that occurred subsequent to June 30, 1955, and for which the liability of the employer for compensation has not been discharged under s. 440.20(12), the injured employee shall receive additional weekly compensation benefits equal to 5 percent of her or his weekly compensation rate, as established pursuant to the law in effect on the date of her or his injury, multiplied by the number of calendar years since the date of injury. The weekly compensation payable and the additional benefits payable under this paragraph, when combined, may not exceed the maximum weekly compensation rate in effect at the time of payment as determined pursuant to s. 440.12(2). Entitlement to these supplemental payments shall cease at age 62 if the employee is eligible for social security benefits under 42 U.S.C. ss. 402 and 423, whether or not the employee has applied for such benefits. These supplemental benefits shall be paid by the division out of the Workers' Compensation Administration Trust Fund when the injury occurred subsequent to June 30, 1955, and

before July 1, 1984. These supplemental benefits shall be paid by the employer when the injury occurred on or after July 1, 1984. Supplemental benefits are not payable for any period prior to October 1, 1974.

2.a. The division shall provide by rule for the periodic reporting to the division of all earnings of any nature and social security income by the injured employee entitled to or claiming additional compensation under subparagraph 1. Neither the division nor the employer or carrier shall make any payment of those additional benefits provided by subparagraph 1. for any period during which the employee willfully fails or refuses to report upon request by the division in the manner prescribed by such rules.

b. The division shall provide by rule for the periodic reporting to the employer or carrier of all earnings of any nature and social security income by the injured employee entitled to or claiming benefits for permanent total disability. The employer or carrier is not required to make any payment of benefits for permanent total disability for any period during which the employee willfully fails or refuses to report upon request by the employer or carrier in the manner prescribed by such rules or if any employee who is receiving permanent total disability benefits refuses to apply for or cooperate with the employer or carrier in applying for social security benefits.

3. When an injured employee receives a full or partial lump-sum advance of the employee's permanent total disability compensation benefits, the employee's benefits under this paragraph shall be computed on the employee's weekly compensation rate as reduced by the lump-sum advance.

(2) TEMPORARY TOTAL DISABILITY.—

(b) Notwithstanding the provisions of paragraph (a), an employee who has sustained the loss of an arm, leg, hand, or foot, has been rendered a paraplegic, paraparetic, quadriplegic, or quadriparetic, or has lost the sight of both eyes shall be paid temporary total disability of 80 percent of her or his average weekly wage. The increased temporary total disability compensation provided for in this paragraph must not extend beyond 6 months from the date of the accident. The compensation provided by this paragraph is not subject to the limits provided in s. 440.12(2), but instead is subject to a maximum weekly compensation rate of \$700. If, at the conclusion of this period of increased temporary total disability compensation, the employee is still temporarily totally disabled, the employee shall continue to receive temporary total disability compensation as set forth in paragraphs (a) and (c). The period of time the employee has received this increased compensation will be counted as part of, and not in addition to, the maximum periods of time for which the employee is entitled to compensation under paragraph (a) but not paragraph (c).

(d) The division shall, by rule, provide for the periodic reporting to the division, employer, or carrier of all earned income, including income from social security, by the injured employee who is entitled to or claiming benefits for temporary total disability. The employer or carrier is not required to make any payment of benefits for temporary total disability for any period during which the employee willfully fails or refuses to report upon request by the employer or carrier in the manner prescribed by the rules. The rule

must require the claimant to personally sign the claim form and attest that she or he has reviewed, understands, and acknowledges the foregoing.

(5) SUBSEQUENT INJURY.—

(a) The fact that an employee has suffered previous disability, impairment, anomaly, or disease, or received compensation therefor, shall not preclude her or him from benefits for a subsequent aggravation or acceleration of the preexisting condition nor preclude benefits for death resulting therefrom, except that no benefits shall be payable if the employee, at the time of entering into the employment of the employer by whom the benefits would otherwise be payable, falsely represents herself or himself in writing as not having previously been disabled or compensated because of such previous disability, impairment, anomaly, or disease and the employer detrimentally relies on the misrepresentation. Compensation for temporary disability, medical benefits, and wage-loss benefits shall not be subject to apportionment.

(8) EMPLOYEE LEAVES EMPLOYMENT.—If an injured employee, when receiving compensation for temporary partial disability, leaves the employment of the employer by whom she or he was employed at the time of the accident for which such compensation is being paid, the employee he shall, upon securing employment elsewhere, give to such former employer an affidavit in writing containing the name of her or his new employer, the place of employment, and the amount of wages being received at such new employment; and, until she or he gives such affidavit, the compensation for temporary partial disability will cease. The employer by whom such employee was employed at the time of the accident for which such compensation is being paid may also at any time demand of such employee an additional affidavit in writing containing the name of her or his employer, the place of her or his employment, and the amount of wages she or he is receiving; and if the employee, upon such demand, fails or refuses to make and furnish such affidavit, her or his right to compensation for temporary partial disability shall cease until such affidavit is made and furnished.

(9) EMPLOYEE BECOMES INMATE OF INSTITUTION.—In case an employee becomes an inmate of a public institution, then no compensation shall be payable unless she or he has dependent upon her or him for support a person or persons defined as dependents elsewhere in this chapter, whose dependency shall be determined as if the employee were deceased and to whom compensation would be paid in case of death; and such compensation as is due such employee shall be paid such dependents during the time she or he remains such inmate.

(10) EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER AND FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE ACT.—

(a) Weekly compensation benefits payable under this chapter for disability resulting from injuries to an employee who becomes eligible for benefits under 42 U.S.C. s. 423 shall be reduced to an amount whereby the sum of such compensation benefits payable under this chapter and such total benefits otherwise payable for such period to the employee and her or his depen-

dents, had such employee not been entitled to benefits under this chapter, under 42 U.S.C. ss. 402 and 423, does not exceed 80 percent of the employee's average weekly wage. However, this provision shall not operate to reduce an injured worker's benefits under this chapter to a greater extent than such benefits would have otherwise been reduced under 42 U.S.C. s. 424(a). This reduction of compensation benefits is not applicable to any compensation benefits payable for any week subsequent to the week in which the injured worker reaches the age of 62 years.

(c) No disability compensation benefits payable for any week, including those benefits provided by paragraph (1)(e), shall be reduced pursuant to this subsection until the Social Security Administration determines the amount otherwise payable to the employee under 42 U.S.C. ss. 402 and 423 and the employee has begun receiving such social security benefit payments. The employee shall, upon demand by the division, the employer, or the carrier, authorize the Social Security Administration to release disability information relating to her or him and authorize the Division of Unemployment Compensation to release unemployment compensation information relating to her or him, in accordance with rules to be promulgated by the division prescribing the procedure and manner for requesting the authorization and for compliance by the employee. Neither the division nor the employer or carrier shall make any payment of benefits for total disability or those additional benefits provided by paragraph (1)(e) for any period during which the employee willfully fails or refuses to authorize the release of information in the manner and within the time prescribed by such rules. The authority for release of disability information granted by an employee under this paragraph shall be effective for a period not to exceed 12 months, such authority to be renewable as the division may prescribe by rule.

(13) REPAYMENT.—If an employee has received a sum as an indemnity benefit under any classification or category of benefit under this chapter to which she or he is not entitled, the employee is liable to repay that sum to the employer or the carrier or to have that sum deducted from future benefits, regardless of the classification of benefits, payable to the employee under this chapter; however, a partial payment of the total repayment may not exceed 20 percent of the amount of the biweekly payment.

Section 1053. Subsections (1), (2), (3), (4), (5), and (6) of section 440.39, Florida Statutes (1996 Supplement), are amended to read:

440.39 Compensation for injuries when third persons are liable.—

(1) If an employee, subject to the provisions of the Workers' Compensation Law, is injured or killed in the course of his or her employment by the negligence or wrongful act of a third-party tortfeasor, such injured employee or, in the case of his or her death, the employee's his dependents may accept compensation benefits under the provisions of this law, and at the same time such injured employee or his or her dependents or personal representatives may pursue his or her remedy by action at law or otherwise against such third-party tortfeasor.

(2) If the employee or his or her dependents accept compensation or other benefits under this law or begin proceedings therefor, the employer or, in the

event the employer is insured against liability hereunder, the insurer shall be subrogated to the rights of the employee or his or her dependents against such third-party tortfeasor, to the extent of the amount of compensation benefits paid or to be paid as provided by subsection (3). If the injured employee or his or her dependents recovers from a third-party tortfeasor by judgment or settlement, either before or after the filing of suit, before the employee has accepted compensation or other benefits under this chapter or before the employee has filed a written claim for compensation benefits, the amount recovered from the tortfeasor shall be set off against any compensation benefits other than for remedial care, treatment and attendance as well as rehabilitative services payable under this chapter. The amount of such offset shall be reduced by the amount of all court costs expended in the prosecution of the third-party suit or claim, including reasonable attorney fees for the plaintiff's attorney. In no event shall the setoff provided in this section in lieu of payment of compensation benefits diminish the period for filing a claim for benefits as provided in s. 440.19.

(3)(a) In all claims or actions at law against a third-party tortfeasor, the employee, or his or her dependents or those entitled by law to sue in the event he or she is deceased, shall sue for the employee individually and for the use and benefit of the employer, if a self-insurer, or employer's insurance carrier, in the event compensation benefits are claimed or paid; and such suit may be brought in the name of the employee, or his or her dependents or those entitled by law to sue in the event he or she is deceased, as plaintiff or, at the option of such plaintiff, may be brought in the name of such plaintiff and for the use and benefit of the employer or insurance carrier, as the case may be. Upon suit being filed, the employer or the insurance carrier, as the case may be, may file in the suit a notice of payment of compensation and medical benefits to the employee or his or her dependents, which notice shall constitute a lien upon any judgment or settlement recovered to the extent that the court may determine to be their pro rata share for compensation and medical benefits paid or to be paid under the provisions of this law, less their pro rata share of all court costs expended by the plaintiff in the prosecution of the suit including reasonable attorney's fees for the plaintiff's attorney. In determining the employer's or carrier's pro rata share of those costs and attorney's fees, the employer or carrier shall have deducted from its recovery a percentage amount equal to the percentage of the judgment or settlement which is for costs and attorney's fees. Subject to this deduction, the employer or carrier shall recover from the judgment or settlement, after costs and attorney's fees incurred by the employee or dependent in that suit have been deducted, 100 percent of what it has paid and future benefits to be paid, except, if the employee or dependent can demonstrate to the court that he or she did not recover the full value of damages sustained, the employer or carrier shall recover from the judgment or settlement, after costs and attorney's fees incurred by the employee or dependent in that suit have been deducted, a percentage of what it has paid and future benefits to be paid equal to the percentage that the employee's net recovery is of the full value of the employee's damages; provided, the failure by the employer or carrier to comply with the duty to cooperate imposed by subsection (7) may be taken into account by the trial court in determining the amount of the employer's or carrier's recovery, and such recovery may be reduced, as the court deems equitable and appropriate under the circumstances, including

as a mitigating factor whether a claim or potential claim against a third party is likely to impose liability upon the party whose cooperation is sought, if it finds such a failure has occurred. The burden of proof will be upon the employee. The determination of the amount of the employer's or carrier's recovery shall be made by the judge of the trial court upon application therefor and notice to the adverse party. Notice of suit being filed shall be served upon the employer and compensation carrier and upon all parties to the suit or their attorneys of record by the employee. Notice of payment of compensation benefits shall be served upon the employee and upon all parties to the suit or their attorneys of record by the employer and compensation carrier. However, if a migrant worker prevails under a private cause of action under the Migrant and Seasonal Agricultural Worker Protection Act (AWPA) 96 Stat. 2583, as amended, 29 U.S.C. ss. 1801 et seq. (1962 ed. and Supp. V), any recovery by the migrant worker under this act shall be offset 100 percent against any recovery under AWP.

(b) If the employer or insurance carrier has given written notice of his or her rights of subrogation to the third-party tortfeasor, and, thereafter, settlement of any such claim or action at law is made, either before or after suit is filed, and the parties fail to agree on the proportion to be paid to each, the circuit court of the county in which the cause of action arose shall determine the amount to be paid to each by such third-party tortfeasor in accordance with the provisions of paragraph (a).

(4)(a) If the injured employee or his or her dependents, as the case may be, fail to bring suit against such third-party tortfeasor within 1 year after the cause of action thereof has accrued, the employer, if a self-insurer, and if not, the insurance carrier, may, after giving 30 days' notice to the injured employee or his or her dependents and the injured employee's attorney, if represented by counsel, institute suit against such third-party tortfeasor, either in his or her own name or as provided by subsection (3), and, in the event suit is so instituted, shall be subrogated to and entitled to retain from any judgment recovered against, or settlement made with, such third party, the following: All amounts paid as compensation and medical benefits under the provisions of this law and the present value of all future compensation benefits payable, to be reduced to its present value, and to be retained as a trust fund from which future payments of compensation are to be made, together with all court costs, including attorney's fees expended in the prosecution of such suit, to be prorated as provided by subsection (3). The remainder of the moneys derived from such judgment or settlement shall be paid to the employee or his or her dependents, as the case may be.

(b) If the carrier or employer does not bring suit within 2 years following the accrual of the cause of action against a third-party tortfeasor, the right of action shall revert to the employee or, in the case of the employee's his death, those entitled by law to sue, and in such event the provisions of subsection (3) shall apply.

(5) In all cases under subsection (4) involving third-party tortfeasors in which compensation benefits under this law are paid or are to be paid, settlement may not be made either before or after suit is instituted except upon agreement of the injured employee or his or her dependents and the employer or his or her insurance carrier, as the case may be.

(6) Any amounts recovered under this section by the employer or his or her insurance carrier shall be credited against the loss experience of such employer.

Section 1054. Subsections (1), (4), and (5), paragraph (a) of subsection (6), and paragraph (a) of subsection (9) of section 440.49, Florida Statutes (1996 Supplement), are amended to read:

440.49 Limitation of liability for subsequent injury through Special Disability Trust Fund.—

(1) LEGISLATIVE INTENT.—Whereas it is often difficult for workers with disabilities to achieve employment or to become reemployed following an injury, and it is the desire of the Legislature to facilitate the return of these workers to the workplace, it is the purpose of this section to encourage the employment, reemployment, and accommodation of the physically disabled by reducing an employer's insurance premium for reemploying an injured worker, to decrease litigation between carriers on apportionment issues, and to protect employers from excess liability for compensation and medical expense when an injury to a physically disabled worker merges with, aggravates, or accelerates her or his preexisting permanent physical impairment to cause either a greater disability or permanent impairment, or an increase in expenditures for temporary compensation or medical benefits than would have resulted from the injury alone. The division shall inform all employers of the existence and function of the fund and shall interpret eligibility requirements liberally. However, this subsection shall not be construed to create or provide any benefits for injured employees or their dependents not otherwise provided by this chapter. The entitlement of an injured employee or her or his dependents to compensation under this chapter shall be determined without regard to this subsection, the provisions of which shall be considered only in determining whether an employer or carrier who has paid compensation under this chapter is entitled to reimbursement from the Special Disability Trust Fund.

(4) PERMANENT IMPAIRMENT OR PERMANENT TOTAL DISABILITY, TEMPORARY BENEFITS, MEDICAL BENEFITS, OR ATTENDANT CARE AFTER OTHER PHYSICAL IMPAIRMENT.—

(a) Permanent impairment.—If an employee who has a preexisting permanent physical impairment incurs a subsequent permanent impairment from injury or occupational disease arising out of, and in the course of, her or his employment which merges with the preexisting permanent physical impairment to cause a permanent impairment, the employer shall, in the first instance, pay all benefits provided by this chapter; but, subject to the limitations specified in subsection (6), such employer shall be reimbursed from the Special Disability Trust Fund created by subsection (8) for 50 percent of all impairment benefits which the employer has been required to provide pursuant to s. 440.15(3)(a) as a result of the subsequent accident or occupational disease.

(b) Permanent total disability.—If an employee who has a preexisting permanent physical impairment incurs a subsequent permanent impairment from injury or occupational disease arising out of, and in the course

of, her or his employment which merges with the preexisting permanent physical impairment to cause permanent total disability, the employer shall, in the first instance, pay all benefits provided by this chapter; but, subject to the limitations specified in subsection (6), such employer shall be reimbursed from the Special Disability Trust Fund created by subsection (8) for 50 percent of all compensation for permanent total disability.

(c) Temporary compensation and medical benefits; aggravation or acceleration of preexisting condition or circumstantial causation.—If an employee who has a preexisting permanent physical impairment experiences an aggravation or acceleration of the preexisting permanent physical impairment as a result of an injury or occupational disease arising out of and in the course of her or his employment, or suffers an injury as a result of a merger as defined in subparagraph (1)(b)2., the employer shall provide all benefits provided by this chapter, but, subject to the limitations specified in subsection (7), the employer shall be reimbursed by the Special Disability Trust Fund created by subsection (8) for 50 percent of its payments for temporary, medical, and attendant care benefits.

(5) WHEN DEATH RESULTS.—If death results from the subsequent permanent impairment contemplated in paragraph (c) within 1 year after the subsequent injury, or within 5 years after the subsequent injury when disability has been continuous since the subsequent injury, and it is determined that the death resulted from a merger, the employer shall, in the first instance, pay the funeral expenses and the death benefits prescribed by this chapter; but, subject to the limitations specified in subsection (6), she or he shall be reimbursed from the Special Disability Trust Fund created by subsection (8) for the last 50 percent of all compensation allowable and paid for such death and for 50 percent of the amount paid as funeral expenses.

(6) EMPLOYER KNOWLEDGE, EFFECT ON REIMBURSEMENT.—

(a) Reimbursement is not allowed under this section unless it is established that the employer knew of the preexisting permanent physical impairment prior to the occurrence of the subsequent injury or occupational disease, and that the permanent physical impairment is one of the following:

1. Epilepsy.
2. Diabetes.
3. Cardiac disease.
4. Amputation of foot, leg, arm, or hand.
5. Total loss of sight of one or both eyes or a partial loss of corrected vision of more than 75 percent bilaterally.
6. Residual disability from poliomyelitis.
7. Cerebral palsy.
8. Multiple sclerosis.

9. Parkinson's disease.
10. Meniscectomy.
11. Patellectomy.
12. Ruptured cruciate ligament.
13. Hemophilia.
14. Chronic osteomyelitis.
15. Surgical or spontaneous fusion of a major weight-bearing joint.
16. Hyperinsulinism.
17. Muscular dystrophy.
18. Thrombophlebitis.
19. Herniated intervertebral disk.
20. Surgical removal of an intervertebral disk or spinal fusion.
21. One or more back injuries or a disease process of the back resulting in disability over a total of 120 or more days, if substantiated by a doctor's opinion that there was a preexisting impairment to the claimant's back.
22. Total deafness.
23. Mental retardation, provided the employee's intelligence quotient is such that she or he falls within the lowest 2 percentile of the general population. However, it shall not be necessary for the employer to know the employee's actual intelligence quotient or actual relative ranking in relation to the intelligence quotient of the general population.
24. Any permanent physical condition which, prior to the industrial accident or occupational disease, constitutes a 20-percent impairment of a member or of the body as a whole.
25. Obesity, provided the employee is 30 percent or more over the average weight designated for her or his height and age in the Table of Average Weight of Americans by Height and Age prepared by the Society of Actuaries using data from the 1979 Build and Blood Pressure Study.
26. Any permanent physical impairment as defined in s. 440.15(3) which is a result of a prior industrial accident with the same employer or the employer's parent company, subsidiary, sister company, or affiliate located within the geographical boundaries of this state.

(9) SPECIAL DISABILITY TRUST FUND.—

(a) There is established in the State Treasury a special fund to be known as the "Special Disability Trust Fund," which shall be available only for the purposes stated in this section; and the assets thereof may not at any time

be appropriated or diverted to any other use or purpose. The Treasurer shall be the custodian of such fund, and all moneys and securities in such fund shall be held in trust by such Treasurer and shall not be the money or property of the state. The Treasurer is authorized to disburse moneys from such fund only when approved by the division and upon the order of the Comptroller. The Treasurer shall deposit any moneys paid into such fund into such depository banks as the division may designate and is authorized to invest any portion of the fund which, in the opinion of the division, is not needed for current requirements, in the same manner and subject to all the provisions of the law with respect to the deposits of state funds by such Treasurer. All interest earned by such portion of the fund as may be invested by the Treasurer shall be collected by her or him and placed to the credit of such fund.

Section 1055. Paragraphs (g) and (h) of subsection (1) of section 440.491, Florida Statutes (1996 Supplement), are amended to read:

440.491 Reemployment of injured workers; rehabilitation.—

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

(g) “Suitable gainful employment” means employment or self-employment that is reasonably attainable in light of the employee’s age, education, work history, transferable skills, previous occupation, and injury, and which offers an opportunity to restore the individual as soon as practicable and as nearly as possible to his or her average weekly earnings at the time of injury.

(h) “Vocational evaluation” means a review of the employee’s physical and intellectual capabilities, his or her aptitudes and achievements, and his or her work-related behaviors to identify the most cost-effective means toward the employee’s ~~his~~ return to suitable gainful employment.

Section 1056. Subsections (2) and (3) of section 440.50, Florida Statutes (1996 Supplement), are amended to read:

440.50 Workers’ Compensation Administration Trust Fund.—

(2) The Treasurer is authorized to disburse moneys from such fund only when approved by the division and upon the order of the Comptroller. He or she shall be required to give bond in an amount to be approved by the division conditioned upon the faithful performance of his or her duty as custodian of such fund.

(3) The Treasurer shall deposit any moneys paid into such fund into such depository banks as the division may designate and is authorized to invest any portion of the fund which, in the opinion of the division, is not needed for current requirements, in the same manner and subject to all the provisions of the law with respect to the deposit of state funds by such Treasurer. All interest earned by such portion of the fund as may be invested by the Treasurer shall be collected by him or her and placed to the credit of such fund.

Section 1057. Paragraphs (b), (c), and (d) of subsection (1) of section 442.109, Florida Statutes (1996 Supplement), are amended to read:

442.109 Material safety data sheet required to be available for employee examination; employer and employee rights when unavailable.—

(1) Every employer who manufactures, produces, uses, or applies toxic substances in the workplace shall maintain a material safety data sheet for each product which is present in such workplace. All material safety data sheets shall be readily available in the workplace. Employers who only store toxic substances in the workplace are not required to maintain material safety data sheets in the workplace so long as the material safety data sheets are made available to the employee within 10 working days.

(b) Any employee or her or his designated representative may request in writing and shall have the right to examine and obtain the material safety data sheets for the toxic substances to which she or he is, has been, or may be exposed. The employer shall provide any material safety data sheet within its possession within 5 of the requesting employee's working days, subject to the provisions of s. 442.107(2). The employer may adopt reasonable procedures for acting upon such requests to avoid interruption of normal work operations.

(c) An independent contractor or subcontractor working in the workplace of another employer may request in writing and shall have the right to examine the material safety data sheets for the toxic substances to which she or he or her or his employees, are, have been, or may be exposed. The employer shall provide any material safety data sheet within its possession within 5 of the requesting independent contractor's or subcontractor's working days, subject to the provisions of s. 442.107(2). The employer may adopt reasonable procedures for acting upon such requests to avoid interruption of normal work operations.

(d) If an employee who has requested a material safety data sheet pursuant to this act has not received it within 5 of the requesting employee's working days, subject to the provisions of s. 442.107(2), that employee may refuse to work with the substance for which she or he has requested the material safety data sheet until it is provided. However, nothing contained in this paragraph shall be construed to permit any employee of the state or any of its political subdivisions to refuse to perform essential services. Further, nothing shall be construed to interfere with the right of the employer to transfer an employee who so refuses to work to other duties until the material safety data sheet is provided; such a transfer shall not be considered as a discriminatory act under s. 442.116. No pay, position, seniority, or other benefit shall be lost as a result of such a transfer for the exercise of any right provided by this act.

Section 1058. Subsections (6), (7), and (9), paragraph (b) of subsection (12), paragraph (c) of subsection (18), subsection (19), including subparagraph f. of subparagraph 4. of paragraph (a) as amended by section 1 of chapter 96-378, Laws of Florida, subsections (26), (28), and (32), and paragraph (b) of subsection (33) of section 443.036, Florida Statutes (1996 Supplement), are amended to read:

443.036 Definitions.—As used in this chapter, unless the context clearly requires otherwise:

(6) **BENEFIT YEAR.**—“Benefit year,” with respect to any individual, means the 1-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits and, thereafter, the 1-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his or her last preceding benefit year. Any claim for benefits made in accordance with s. 443.151(2) shall be deemed to be a “valid claim” for the purposes of this subsection if the individual has been paid wages for insured work in accordance with the provisions of s. 443.091(1)(e) and is unemployed as defined in subsection (32) at the time of the filing of such claim. However, the division may in its discretion provide by rule for the establishment of a uniform benefit year for all workers in one or more groups or classes of service or within a particular industry when and if it has been determined by the division, after notice to the industry and to the workers in such industry and an opportunity to be heard in the matter, that such groups or classes of workers in a particular industry periodically experience unemployment resulting from layoffs or shutdowns for limited periods of time.

(7) **BENEFITS.**—“Benefits” means the money payable to an individual, as provided in this chapter, with respect to his or her unemployment.

(9) **CASUAL LABOR.**—“Casual labor” means labor which is occasional, incidental, or irregular, not exceeding 200 ~~person-hours~~ man-hours in total duration. “Duration” means the period of time from the commencement to the completion of the particular job or project. However, services performed by an employee for his or her employer during a period of 1 calendar month or any 2 consecutive calendar months shall be deemed to be casual labor only if such service is performed on not more than 10 calendar days, whether or not such days are consecutive. If any of the services of an individual on a particular labor project are not casual labor, as defined, then none of the services of such individual on such job or project shall be deemed casual labor. In order for services to be exempt under this subsection, such services shall constitute casual labor, as defined, and not in the course of the employer’s trade or business, as defined.

(12) **CREW LEADER.**—“Crew leader” means an individual who:

(b) Pays, either on his or her own behalf or on behalf of such other person, the individuals so furnished by him or her for the service in agricultural labor performed by them.

(18) **EMPLOYING UNIT.**—“Employing unit” means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign; the receiver, trustee in bankruptcy, trustee, or successor of any of the foregoing; or the legal representative of a deceased person, which has or had in its employ one or more individuals performing services for it within this state.

(c) Any person who is an officer of a corporation and who performs services for such corporation within this state, whether or not such services are continuous, shall be deemed an employee of the corporation during all of each week of his or her tenure of office, regardless of whether or not he or she is compensated for such services. Services shall be presumed to have been rendered the corporation in cases where such officer is compensated by means other than dividends upon shares of stock of such corporation owned by him or her.

(19) EMPLOYMENT.—“Employment,” subject to the other provisions of this chapter, means any service performed by an employee for the person employing him or her.

(a) Generally.—

1. The term “employment” includes any service performed prior to January 1, 1978, which was employment as defined in this subsection prior to such date and, subject to the other provisions of this subsection, service performed after December 31, 1977, including service in interstate commerce, by:

a. Any officer of a corporation.

b. Any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an employee. However, whenever a company, hereafter referred to as “client,” which would otherwise be designated as an employing unit has contracted with an employee leasing company to supply it with workers, those workers shall, after December 31, 1986, be considered employees of the employee leasing company. The employee leasing company shall be permitted to lease corporate officers of the client to the client and such other workers where not prohibited by Internal Revenue Service regulations. Employees of the employee leasing company shall be reported under the employee leasing company’s tax identification number and tax rate for work performed for the employee leasing company.

c. Any individual other than an individual who is an employee under sub-subparagraph a. or sub-subparagraph b., who performs services for remuneration for any person:

(I) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or drycleaning services for his or her principal.

(II) As a traveling or city ~~salesperson~~ salesman, other than as an agent-driver or commission-driver, engaged on a full-time basis in the solicitation on behalf of, and the transmission to, his or her principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

For purposes of sub-subparagraph c., the term “employment” includes services described in sub-sub-subparagraphs (I) and (II) only if: The contract of service contemplates that substantially all of the services are to be performed personally by such individual; the individual does not have a substantial investment in facilities used in connection with the performance of the services, other than in facilities for transportation; and the services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

2. Notwithstanding any other provisions of this subsection, service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this chapter.

3. If the services performed during one-half or more of any pay period by an employee for the person employing him or her constitute employment, all of the services of such employee for such period shall be deemed to be employment, but if the services performed during more than one-half of any such pay period by an employee for the person employing him or her do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. This subparagraph shall not be applicable with respect to services performed in a pay period by an employee for the person employing him or her, when any of such service is excepted by subparagraph (n)7.

4. If two or more related corporations concurrently employ the same individual and compensate such individual through a common paymaster, each related corporation shall be considered to have paid as wages to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as wages to such individual any amounts actually disbursed to such individual by another of such corporations.

a. A “common paymaster” is any member of a group of related corporations that disburses wages to concurrent employees on behalf of the related corporations and that is responsible for keeping payroll records with respect to those concurrent employees. The common paymaster is not required to disburse wages to all the employees of the related corporations, but the provisions of this section shall not apply to any wages to concurrent employees that are not disbursed through a common paymaster. The common paymaster shall pay concurrently employed individuals under this section by one combined paycheck.

b. “Concurrent employment” means the existence of simultaneous employment relationships, as defined in this chapter, between an individual and related corporations. Such relationships require the performance of services by the employee for the benefit of the related corporations, including the common paymaster, in exchange for wages which, if deductible for the purposes of federal income tax, would be deductible by the related corporations.

c. Corporations shall be considered related corporations for an entire calendar quarter, as defined in subsection (8), if they satisfy any one of the following four tests at any time during that calendar quarter:

(I) The corporations are members of a “controlled group of corporations” as defined in s. 1563 of the Internal Revenue Code of 1986 or would be members if paragraph 1563(a)(4) and subsection 1563(b) did not apply.

(II) In the case of a corporation that does not issue stock, either 50 percent or more of the members of the board of directors or other governing body of one corporation are members of the board of directors or other governing body of the other corporation, or the holders of 50 percent or more of the voting power to select such members are concurrently the holders of more than 50 percent of that power with respect to the other corporation.

(III) Fifty percent or more of the officers of one corporation are concurrently officers of the other corporation.

(IV) Thirty percent or more of the employees of one corporation are concurrently employees of the other corporation.

d. The common paymaster shall report to the division, as a part of the unemployment compensation quarterly tax and wage report, the state unemployment compensation account number and name of each related corporation for which concurrent employees are being reported. Failure to timely report this information shall result in the related corporations being denied common paymaster status for that calendar quarter.

e. The common paymaster shall also have the primary responsibility for remitting contributions due under this chapter with respect to the wages it disburses as the common paymaster. The common paymaster shall compute these contributions as though it were the sole employer of the concurrently employed individuals. If the common paymaster fails to timely remit these contributions or reports, in whole or in part, it shall remain liable for the full amount of the unpaid portion of these taxes. In addition, each of the other related corporations using the common paymaster shall be jointly and severally liable for its appropriate share of these contributions. Such share shall be an amount equal to the greater of the following:

(I) The amount of the liability of the common paymaster under this chapter, after taking into account any contributions made.

(II) The amount of the liability under this chapter which, but for this section, would have existed with respect to the wages from such other related corporations, reduced by an allocable portion of any contributions previously paid by the common paymaster with respect to those wages.

f. This subsection may apply to all contributions and reports due for the first quarter of 1997 and thereafter.

(b) Public employees.—The term “employment” includes service performed in the employ of this state or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities, any instrumentality of more than one of the foregoing, or any instrumentality of any of the

foregoing and one or more other states or political subdivisions, provided such service is excluded from “employment” as defined in s. 3306(c)(7) of the Federal Unemployment Tax Act and is not excluded from “employment” under paragraph (d) of this subsection.

(c) Religious, charitable, etc., employees.—The term “employment” includes service performed by an individual in the employ of a religious, charitable, educational, or other organization, but only if the following conditions are met:

1. The service is excluded from “employment” as defined in the Federal Unemployment Tax Act solely by reason of s. 3306(c)(8) of that act; and

2. The organization had four or more individuals in employment for some portion of a day in each of 20 different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time.

(d) Exclusions from paragraphs (b) and (c).—For the purposes of paragraphs (b) and (c), the term “employment” does not apply to service performed:

1. In the employ of:

a. A church or convention or association of churches.

b. An organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches.

2. By a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by such order.

3. Prior to January 1, 1978, in the employ of a nonprofit educational institution which is not an institution of higher education and which would otherwise be employment as defined in paragraph (c).

4. In the employ of a governmental entity referred to in paragraph (b), if such service is performed by an individual in the exercise of duties:

a. As an elected official.

b. As a member of a legislative body, or a member of the judiciary, of a state or political subdivision.

c. As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency.

d. In a position which, under or pursuant to the laws of this state, is designated as a major nontenured policymaking or advisory position or a policymaking or advisory position, the performance of the duties of which ordinarily does not require more than 8 hours per week.

5. In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work.

6. As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training, except that this subparagraph does not apply to unemployment work-relief or work-training programs for which unemployment compensation coverage is required under a federal law, rule, or regulation.

7. By an inmate of a custodial or penal institution.

(e) Agricultural service.—The term “employment” includes service performed after December 31, 1977, by an individual in agricultural labor, as defined in subsection (1), when:

1. Such service is performed before January 1, 1988, for a person who:

a. During any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of \$20,000 or more to individuals employed in agricultural labor.

b. For some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment of time.

2. Such service is performed after December 31, 1987, for a person who:

a. During any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of \$10,000 or more to individuals employed in agricultural labor.

b. For some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor five or more individuals, regardless of whether they were employed at the same moment of time.

3. Such service is performed by any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person.

a. For the purposes of this subparagraph, a crew member shall be treated as an employee of the crew leader:

(I) If the crew leader holds a valid certificate of registration under the Migrant and Seasonal Agricultural Worker Protection Act of 1983 or if substantially all of the members of the crew operate or maintain tractors,

mechanized harvesting or crop-dusting equipment, or any other mechanized equipment which is provided by the crew leader; and

(II) If such individual is not an employee of such other person within the meaning of paragraph (a).

b. For the purposes of this subparagraph, in the case of an individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of the crew leader under sub-subparagraph a.:

(I) Such other person and not the crew leader shall be treated as the employer of such individual; and

(II) Such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader, either on his or her own behalf or on the behalf of such other person, for the service in agricultural labor performed for such other person.

(f) Exclusion from paragraph (e).—The term “employment” does not include service performed by an individual in agricultural labor, except as provided in paragraph (e); however, the provisions of paragraph (e) shall not reduce the coverage provided under subparagraph (d)3.

(g) Domestic service.—The term “employment” includes domestic service after December 31, 1977, in a private home, local college club, or local chapter of a college fraternity or sorority performed for a person who paid cash remuneration of \$1,000 or more after December 31, 1977, in any calendar quarter in the current calendar year or the preceding calendar year to individuals employed in such domestic service.

(h) Service outside state.—The term “employment” includes an individual's entire service, performed within or both within and without this state if:

1. The service is localized in this state; or
2. The service is not localized in any state, but some of the service is performed in this state, and:
 - a. The base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this state; or
 - b. The base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(i) Employer election to include service outside state.—Services not covered under subparagraph (h)2. and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the Federal Government, shall be deemed to be employment subject to this chapter if the

individual performing such services is a resident of this state and the division approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this chapter.

(j) Service deemed to be localized within state.—Service shall be deemed to be localized within a state if:

1. The service is performed entirely within such state; or
2. The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state; for example, it is temporary or transitory in nature or consists of isolated transactions.

(k) Service outside United States.—The term “employment” includes the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada) in the employ of an American employer, other than service which is deemed “employment” under the provisions of paragraph (b) or paragraph (c) or the parallel provisions of another state's law, if:

1. The employer's principal place of business in the United States is located in this state.
2. The employer has no place of business in the United States, but:
 - a. The employer is an individual who is a resident of this state.
 - b. The employer is a corporation which is organized under the laws of this state.
 - c. The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state.
3. None of the criteria of subsection (3) and this paragraph is met, but the employer has elected coverage in this state, or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the laws of this state.

(l) Service on American vessel or aircraft.—The term “employment” includes all service performed by an officer or member of a crew of an American vessel or American aircraft on or in connection with such vessel or aircraft, provided that the operating office, from which the operations of such vessel or aircraft operating within or within and without the United States is ordinarily and regularly supervised, managed, directed, and controlled, is within this state.

(m) Service under other unemployment compensation law.—The term “employment” includes services covered by an arrangement pursuant to s. 443.221 between the division and the agency charged with the administration of any other state unemployment compensation law or Federal Unemployment Compensation Law, pursuant to which all services performed by

an individual for an employing unit are deemed to be performed entirely within this state, if the division has approved an election of the employing unit for which such services are performed, pursuant to which the entire service of such individual during the period covered by such election is deemed to be insured work.

(n) Exclusions generally.—The term “employment” does not include:

1. Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in paragraph (g).

2. Service performed on or in connection with a vessel or aircraft not an American vessel or American aircraft, if the employee is employed on and in connection with such vessel or aircraft when outside the United States.

3. Service performed by an individual in, or as an officer or member of the crew of a vessel while it is engaged in, the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed by any such individual as an ordinary incident to any such activity, except:

a. Service performed in connection with the catching or taking of salmon or halibut for commercial purposes.

b. Service performed on, or in connection with, a vessel of more than 10 net tons, determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States.

4. Service performed by an individual in the employ of his or her son, daughter, or spouse, and service performed by a child under the age of 18 in the employ of his or her father or mother.

5. Service performed in the employ of the United States Government or of an instrumentality of the United States which is:

a. Wholly or partially owned by the United States.

b. Exempt from the tax imposed by s. 3301 of the Internal Revenue Code by virtue of any provision of federal law which specifically refers to such section, or the corresponding section of prior law, in granting such exemption; except that to the extent that the Congress shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this law shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services. If this state is not certified for any year by the Secretary of Labor under s. 3304 of the federal Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded by the division from the fund in the same manner and within the same period as is provided in s. 443.141(6) with respect to contributions erroneously collected.

6. Service performed in the employ of a state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more states or political subdivisions, except as provided in paragraph (b), and any service performed in the employ of any instrumentality of one or more states or political subdivisions, to the extent that the instrumentality is, with respect to such service, immune under the Constitution of the United States from the tax imposed by s. 3301 of the Internal Revenue Code.

7. Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office, except as provided in paragraph (c).

8. Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress.

9.a. Service performed in any calendar quarter in the employ of any organization exempt from income tax under s. 501(a) of the Internal Revenue Code, other than an organization described in s. 401(a), or under s. 521, if the remuneration for such service is less than \$50.

b. Service performed in the employ of a school, college, or university, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university.

10. Service performed in the employ of a foreign government, including service as a consular or other officer or employee of a nondiplomatic representative.

11. Service performed in the employ of an instrumentality wholly owned by a foreign government:

a. If the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

b. The Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof.

12. Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to a state law; service performed as an intern in the employ of a hospital

by an individual who has completed a 4-year course in a medical school chartered or approved pursuant to state law; and service performed by a patient of a hospital for such hospital.

13. Service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commission, except for such services performed in accordance with 26 U.S.C.S. s. 3306(c)(7) and (8). For purposes of this subsection, those benefits excluded from the definition of wages pursuant to subparagraphs (33)(b)2.-6., inclusive, shall not be considered remuneration.

14. Service performed by an individual for a person as a real estate salesperson ~~salesman~~ or agent, if all such service performed by such individual for such person is performed for remuneration solely by way of commission.

15. Service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

16. Service covered by an arrangement between the division and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit's duly approved election are deemed to be performed entirely within such agency's state or under such federal law.

17. Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subparagraph does not apply to service performed in a program established for or on behalf of an employer or group of employers.

18. Service performed by an individual for a person as a barber, if all such service performed by such individual for such person is performed for remuneration solely by way of commission.

19. Casual labor not in the course of the employer's trade or business.

20. Service performed by a speech therapist, occupational therapist, or physical therapist who is nonsalaried and working pursuant to a written contract with a home health agency as defined in s. 400.462.

21. Service performed by a direct seller. For purposes of this subparagraph, the term "direct seller" means a person:

a.(I) Who is engaged in the trade or business of selling or soliciting the sale of consumer products to buyers on a buy-sell basis or a deposit-

commission basis, or on any similar basis, for resale in the home or in any other place that is not a permanent retail establishment; or

(II) Who is engaged in the trade or business of selling or soliciting the sale of consumer products in the home or in any other place that is not a permanent retail establishment;

b. Substantially all of whose remuneration for services described in subparagraph a., whether or not paid in cash, is directly related to sales or other output, rather than to the number of hours worked; and

c. Who performs such services pursuant to a written contract with the person for whom the services are performed, which contract provides that the person will not be treated as an employee with respect to such services for federal tax purposes.

22. Service performed by a nonresident alien individual for the period he or she is temporarily present in the United States as a nonimmigrant under subparagraph (F) or subparagraph (J) of s. 101(a)(15) of the Immigration and Nationality Act, and which is performed to carry out the purpose specified in subparagraph (F) or subparagraph (J), as the case may be.

23. Service performed by an individual for remuneration for a private, for-profit delivery or messenger service, if the individual:

a. Is free to accept or reject jobs from the delivery or messenger service and the delivery or messenger service has no control over when the individual works;

b. Is remunerated for each delivery, or the remuneration is based on factors that relate to the work performed, including receipt of a percentage of any rate schedule;

c. Pays all expenses and the opportunity for profit or loss rests solely with the individual;

d. Is responsible for operating costs, including fuel, repairs, supplies, and motor vehicle insurance;

e. Determines the method of performing the service, including selection of routes and order of deliveries;

f. Is responsible for the completion of a specific job and is liable for any failure to complete that job;

g. Enters into a contract with the delivery or messenger service which specifies the relationship of the individual to the delivery or messenger service to be that of an independent contractor and not that of an employee; and

h. Provides the vehicle used to perform the service.

24. Service performed in agricultural labor by an individual who is an alien admitted to the United States to perform service in agricultural labor

pursuant to ss. 101(a)(15)(H) and 214(c) of the Immigration and Nationality Act.

(26) MISCONDUCT.—“Misconduct” includes, but is not limited to, the following, which shall not be construed in *pari materia* with each other:

(a) Conduct evincing such willful or wanton disregard of an employer’s interests as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of his or her employee; or

(b) Carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design or to show an intentional and substantial disregard of the employer’s interests or of the employee’s duties and obligations to his or her employer.

(28) PAY PERIOD.—“Pay period” means a period of not more than 31 consecutive days for which a payment or remuneration is ordinarily made to the employee by the person employing him or her.

(32) UNEMPLOYMENT.—“Unemployment” means:

(a) An individual shall be deemed “totally unemployed” in any week during which he or she performs no services and with respect to which no earned income is payable to him or her, or shall be deemed “partially unemployed” in any week of less than full-time work if the earned income payable to him or her with respect to such week is less than his or her weekly benefit amount. The division shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to total unemployment, part-time unemployment, partial unemployment of individuals attached to their regular jobs, and other forms of short-time work, as the division deems necessary.

(b) An individual’s week of unemployment shall be deemed to commence only after his or her registration at an employment office, except as the division may by rule otherwise prescribe.

(33) WAGES.—

(b) “Wages” does not include:

1. That part of remuneration which, after remuneration equal to \$6,000 prior to January 1, 1983, and \$7,000 after December 31, 1982, has been paid in a calendar year to an individual by an employer or his or her predecessor with respect to employment during any calendar year, is paid to such individual by such employer during such calendar year, unless that part of the remuneration is subject to a tax, under a federal law imposing the tax, against which credit may be taken for contributions required to be paid into a state unemployment fund. For the purposes of this subsection, the term “employment” includes services constituting employment under any employment security law of another state or of the Federal Government.

2. The amount of any payment, with respect to services performed, to, or on behalf of, an individual in its employ under a plan or system established

by an employing unit which makes provision for individuals in its employ generally or for a class or classes of such individuals, including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment, on account of:

a. Sickness or accident disability, but, in the case of payments made to an employee or any of his or her dependents, this subparagraph shall exclude from the term "wages" only those payments received under a workers' compensation law.

b. Medical and hospitalization expenses in connection with sickness or accident disability.

c. Death, provided the individual in its employ:

(I) Has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premiums, or contributions to premiums, paid by his or her employing unit; and

(II) Has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit or to receive cash consideration in lieu of such benefit either upon his or her withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his or her services with such employing unit.

3. The amount of any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employing unit to, or on behalf of, an individual performing services for it after the expiration of 6 calendar months following the last calendar month in which the individual performed services for such employing unit.

4. The payment by an employing unit, without deduction from the remuneration of the individual in its employ, of the tax imposed upon an individual in its employ under s. 3101 of the federal Internal Revenue Code with respect to services performed.

5. The value of:

a. Meals furnished to an employee or the employee's spouse or dependents by the employer on the business premises of the employer for the convenience of the employer; or

b. Lodging furnished to an employee or the employee's spouse or dependents by the employer on the business premises of the employer for the convenience of the employer when such lodging is included as a condition of employment.

6. The amount of any payment made by an employing unit to, or on behalf of, an individual performing services for it or a beneficiary of such individual:

a. From or to a trust described in s. 401(a) of the Internal Revenue Code of 1954 which is exempt from tax under s. 501(a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust;

b. Under or to an annuity plan which, at the time of such payment, is a plan described in s. 403(a) of the Internal Revenue Code of 1954;

c. Under a simplified employee pension if, at the time of the payment, it is reasonable to believe that the employee will be entitled to a deduction under s. 219(b)(2) of the Internal Revenue Code of 1954 for such payment;

d. Under or to an annuity contract described in s. 403(b) of the Internal Revenue Code of 1954, other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement, whether evidenced by a written instrument or otherwise;

e. Under or to an exempt governmental deferred compensation plan as described in s. 3121(v)(3) of the Internal Revenue Code of 1954; or

f. To supplement pension benefits under a plan or trust described in any of the foregoing provisions of this subparagraph to take into account some portion or all of the increase in the cost of living, as determined by the United States Secretary of Labor, since retirement, but only if such supplemental payments are under a plan which is treated as a welfare plan under s. 3(2)(B)(ii) of the Employee Retirement Income Security Act of 1974.

g. Under a cafeteria plan, within the meaning of s. 125 of the Internal Revenue Code of 1986, as amended, if such payment would not be treated as wages without regard to such plan and it is reasonable to believe that, if s. 125 of the Internal Revenue Code of 1986, as amended, applied for purposes of this section, s. 125 of the Internal Revenue Code of 1986, as amended, would not treat any wages as constructively received.

Section 1059. Subsections (1) and (2) of section 443.091, Florida Statutes (1996 Supplement), are amended to read:

443.091 Benefit eligibility conditions.—

(1) An unemployed individual shall be eligible to receive benefits with respect to any week only if the division finds that:

(a) She or he has made a claim for benefits with respect to such week in accordance with such rules as the division may prescribe.

(b) She or he has registered for work at, and thereafter continued to report at, the division, which shall be responsible for notification of the Florida State Employment Service in accordance with such rules as the division may prescribe; except that the division may, by rule not inconsistent with the purposes of this law, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs; but no such rule shall conflict with s. 443.111(1).

(c)1. She or he is able to work and is available for work.

2. Notwithstanding any other provisions in this section, no otherwise eligible individual shall be denied benefits for any week because she or he is in training with the approval of the division, nor shall such individual be denied benefits with respect to any week in which she or he is in training with the approval of the division by reason of the application of provisions in subparagraph 1. relating to availability for work, or the provisions of s. 443.101(2) relating to failure to apply for, or refusal to accept, suitable work.

3. Notwithstanding any other provision of this chapter, an individual who is in training approved under s. 236(a)(1) of the Trade Act of 1974, as amended, may not be determined to be ineligible or disqualified for benefits with respect to her or his enrollment in such training or because of leaving work which is not suitable employment to enter such training. For the purposes of this subparagraph, the term "suitable employment" means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, as defined for purposes of the Trade Act of 1974, as amended, the wages for which are not less than 80 percent of the worker's average weekly wage as determined for purposes of the Trade Act of 1974, as amended.

4. Notwithstanding any other provision of this section, an otherwise eligible individual shall not be denied benefits for any week by reason of the application of subparagraph 1. because she or he is before any court of the United States or any state pursuant to a lawfully issued summons to appear for jury duty.

(d) She or he participates in reemployment services, such as job search assistance services, whenever the individual has been determined, pursuant to a profiling system established by rule of the division, to be likely to exhaust regular benefits and to be in need of reemployment services.

(e) She or he has been unemployed for a waiting period of 1 week. No week shall be counted as a week of unemployment for the purposes of this subsection:

1. Unless it occurs within the benefit year which includes the week with respect to which she or he claims payment of benefits.

2. If benefits have been paid with respect thereto.

3. Unless the individual was eligible for benefits with respect thereto as provided in this section and s. 443.101 except for the requirements of this subsection and of s. 443.101(5).

(f) She or he has been paid wages for insured work equal to 1.5 times her or his high quarter wages during her or his base period, except that an unemployed individual is not eligible to receive benefits if the base period wages are less than \$3,400. As amended by this act, this paragraph applies only to benefit years beginning on or after July 1, 1996.

(2) No individual may receive benefits in a benefit year unless, subsequent to the beginning of the next preceding benefit year during which she

or he received benefits, she or he performed service, whether or not in employment as defined in s. 443.036, and earned remuneration for such service in an amount equal to not less than 3 times her or his weekly benefit amount as determined for her or his current benefit year.

Section 1060. Subsections (1), (2), (3), (4), and (5), paragraph (b) of subsection (7), subsections (8) and (9), and paragraph (b) of subsection (10) of section 443.101, Florida Statutes (1996 Supplement), are amended to read:

443.101 Disqualification for benefits.—An individual shall be disqualified for benefits:

(1)(a) For the week in which he or she has voluntarily left his or her work without good cause attributable to his or her employing unit or in which the individual he has been discharged by his or her employing unit for misconduct connected with his or her work, if so found by the division. The term “work,” as used in this paragraph, means any work, whether full-time, part-time, or temporary.

1. Disqualification for voluntarily quitting shall continue for the full period of unemployment next ensuing after he or she has left his or her work voluntarily without good cause and until such individual has earned income equal to or in excess of 17 times his or her weekly benefit amount; “good cause” as used in this subsection shall include only such cause as is attributable to the employing unit or which consists of illness or disability of the individual requiring separation from his or her work. An individual shall not be disqualified under this subsection for voluntarily leaving temporary work to return immediately when called to work by the permanent employing unit that temporarily terminated his or her work within the previous 6 calendar months.

2. Disqualification for being discharged for misconduct connected with his or her work shall continue for the full period of unemployment next ensuing after having been discharged and until such individual has become reemployed and has earned income not less than 17 times his or her weekly benefit amount and for not more than 52 weeks which immediately follow such week, as determined by the division in each case according to the circumstances in each case or the seriousness of the misconduct, pursuant to rules of the division enacted for determinations of disqualification for benefits for misconduct.

(b) For any week with respect to which the division finds that his or her unemployment is due to a suspension for misconduct connected with the individual's his work.

(c) For any week with respect to which the division finds that his or her unemployment is due to a leave of absence, if such leave was voluntarily initiated by such individual.

(d) For any week with respect to which the division finds that his or her unemployment is due to a discharge for misconduct connected with the individual's his work, consisting of drug use, as evidenced by a positive, confirmed drug test.

(2) If the division finds that the individual has failed without good cause either to apply for available suitable work when so directed by the division or employment office, or to accept suitable work when offered to him or her, or to return to the individual's ~~his~~ customary self-employment when so directed by the division, such disqualification shall continue for the full period of unemployment next ensuing after he or she has failed without good cause either to apply for available suitable work, or to accept suitable work, or to return to his or her customary self-employment, pursuant to this subsection, and until such individual has earned income equal to or in excess of 17 times his or her weekly benefit amount. The division shall by rule provide criteria for determining the "suitability of work," as used in this section. The division in developing such rules shall consider the duration of a claimant's unemployment in determining the suitability of work and the suitability of proposed rates of compensation for available work. Further, after an individual has received 25 weeks of benefits in a single year, suitable work shall be a job which pays the minimum wage and is 120 percent or more of the weekly benefit amount the individual is drawing.

(a) In determining whether or not any work is suitable for an individual, the division shall consider the degree of risk involved to his or her health, safety, and morals; his or her physical fitness and prior training; the individual's ~~his~~ experience and prior earnings; his or her length of unemployment and prospects for securing local work in his or her customary occupation; and the distance of the available work from his or her residence.

(b) Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

1. If the position offered is vacant due directly to a strike, lockout, or other labor dispute.

2. If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

3. If as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(c) If the division finds that an individual has been rejected for offered employment as the direct result of a positive, confirmed drug test required as a condition of employment, such individual shall be disqualified for refusing to accept an offer of suitable work.

(3) For any week with respect to which he or she is receiving or has received remuneration in the form of:

(a) Wages in lieu of notice;

(b)1. Compensation for temporary total disability or permanent total disability under the workers' compensation law of any state or under a similar law of the United States.

2. However, if the remuneration referred to in paragraphs (a) and (b) is less than the benefits which would otherwise be due under this chapter, he or she shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration.

(4) For any week with respect to which the division finds that his or her total or partial unemployment is due to a labor dispute in active progress which exists at the factory, establishment, or other premises at which he or she is or was last employed; except that this subsection shall not apply if it is shown to the satisfaction of the division that:

(a)1. He or she is not participating in, financing, or directly interested in the labor dispute which is in active progress; however, the payment of regular union dues shall not be construed as financing a labor dispute within the meaning of this section; and

2. He or she does not belong to a grade or class of workers of which immediately before the commencement of the labor dispute there were members employed at the premises at which the labor dispute occurs any of whom are participating in, financing, or directly interested in the dispute; if in any case separate branches of work are commonly conducted as separate businesses in separate premises, or are conducted in separate departments of the same premises, each department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premise.

(b) His or her total or partial unemployment results from a lockout by his or her employer. For the purposes of this section, the term "lockout" shall mean a situation where employees have not gone on strike, nor have employees notified the employer of a date certain for a strike, but where employees have been denied entry to the factory, establishment, or other premises of employment by the employer. However, benefits shall not be payable under this paragraph if the lockout action was taken in response to threats, actions, or other indications of impending damage to property and equipment or possible physical violence by employees or in response to actual damage or violence or a substantial reduction in production instigated or perpetrated by employees.

(5) For any week with respect to which or a part of which he or she has received or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States; for the purposes of this subsection, an unemployment compensation law of the United States is any law of the United States which provides for payment of any type and in any amounts for periods of unemployment due to lack of work; however, if the appropriate agency of such other state or of the United States finally determines that he or she is not entitled to such unemployment benefits, this disqualification shall not apply.

(7) If the division finds that the individual is an alien, unless such alien is an individual who has been lawfully admitted for permanent residence or otherwise is permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of the provisions of s. 203(a)(7) or s. 212(d)(5) of the

Immigration and Nationality Act), provided that any modifications to the provisions of s. 3304(a)(14) of the Federal Unemployment Tax Act, as provided by Pub. L. No. 94-566, which specify other conditions or other effective dates than those stated herein for the denial of benefits based on services performed by aliens, and which modifications are required to be implemented under state law as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, shall be deemed applicable under the provisions of this section, provided:

(b) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his or her alien status shall be made except upon a preponderance of the evidence.

(8) For any week with respect to which he or she has received, from a base period employer, benefits from a retirement, pension, or annuity program embodied in a union contract or either a public or private employee benefit program, except:

(a) For any week in which benefits from a retirement, pension, or annuity program, as referred to in this subsection, are less than the weekly benefits which would otherwise be due under this chapter, he or she shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of benefits from the retirement, pension, or annuity program, prorated to a weekly basis;

(b) For any week in which an individual has received benefits from a retirement, pension, or annuity program, as referred to in this subsection, for which program he or she has paid at least one-half of the contributions, the individual ~~he~~ shall be entitled to receive for such week, if otherwise eligible, benefits reduced by one-half of the amount of benefits from the retirement, pension, or annuity program, prorated on a weekly basis; or

(c) For any week in which he or she has received benefits from a retirement, pension, or annuity program under the United States Social Security Act, for which program he or she has paid any contribution, there shall be no reduction in benefits because of the contribution. This paragraph applies only to weeks of unemployment beginning on or after July 5, 1992.

For the purpose of this subsection, benefits from the United States Social Security Act, a disability benefit program, or any other similar periodic payment that is based on the previous work of such individual shall be considered as retirement income, except as provided in paragraph (c).

(9) If the individual was terminated from his or her work for violation of any criminal law punishable by imprisonment, or for any dishonest act, in connection with his or her work, as follows:

(a) If the division or the Unemployment Appeals Commission finds that the individual was terminated from his or her work for violation of any criminal law punishable by imprisonment in connection with his or her work, and the individual has been found guilty of the offense, has made an

admission of guilt in a court of law, or has entered a plea of no contest, the individual shall not be entitled to unemployment compensation for up to 52 weeks, pursuant to rules adopted by the division, and until he or she has earned income equal to or in excess of 17 times his or her weekly benefit amount. If, prior to an adjudication of guilt, an admission of guilt, or a plea of no contest, the employer can show before a hearing examiner or appeals referee that the arrest was due to a crime against the employer or the employer's business and, after considering all the evidence, the hearing examiner or appeals referee finds misconduct in connection with the individual's work, the individual shall not be entitled to unemployment compensation.

(b) If the division or the Unemployment Appeals Commission finds that the individual was terminated from work for any dishonest act in connection with his or her work, the individual shall not be entitled to unemployment compensation for up to 52 weeks, pursuant to rules adopted by the division, and until he or she has earned income equal to or in excess of 17 times his or her weekly benefit amount. In addition, should the employer terminate an individual as a result of a dishonest act in connection with his or her work and the hearing examiner or appeals referee finds misconduct in connection with his or her work, the individual shall not be entitled to unemployment compensation.

With respect to an individual so disqualified for benefits, the account of the terminating employer, if such employer is in the base period, shall be non-charged at the time the disqualification is imposed.

(10) Subject to the requirements of this subsection if the claim is made on the basis of loss of employment as a leased employee for an employee leasing company or as a temporary employee for a temporary help firm.

(b) A temporary or leased employee will be deemed to have voluntarily quit employment and will be disqualified for benefits under subparagraph (1)(a)1. if, upon conclusion of his or her latest assignment, the temporary or leased employee, without good cause, failed to contact the temporary help or employee-leasing firm for reassignment, provided that the employer advised the temporary or leased employee at the time of hire and that the leased employee is notified also at the time of separation that he or she must report for reassignment upon conclusion of each assignment, regardless of the duration of the assignment, and that unemployment benefits may be denied for failure to do so.

Section 1061. Paragraph (b) of subsection (1), subsection (4), paragraph (b) of subsection (5), paragraphs (a), (c), (d), (e), and (h) of subsection (6), and paragraphs (e) and (f) of subsection (7) of section 443.111, Florida Statutes (1996 Supplement), are amended to read:

443.111 Payment of benefits.—

(1) MANNER OF PAYMENT.—Benefits shall be payable from the fund in accordance with such rules as the division may prescribe, subject to the following requirements:

(b) Each claimant shall report in the manner prescribed by the division to certify for benefits which are paid and shall continue to report at least biweekly to receive unemployment benefits and to attest to the fact that she or he is able and available for work, has not refused suitable work, and is seeking work and, if she or he has worked, to report earnings from such work.

(4) WEEKLY BENEFIT FOR UNEMPLOYMENT.—

(a) Total.—Each eligible individual who is totally unemployed in any week shall be paid with respect to such week a benefit in an amount equal to her or his weekly benefit amount.

(b) Partial.—Each eligible individual who is partially unemployed in any week shall be paid with respect to such week a benefit in an amount equal to her or his weekly benefit less that part of the earned income (if any) payable to her or him with respect to such week which is in excess of 8 times the federal hourly minimum wage. Such benefits, if not a multiple of \$1, shall be rounded downward to the nearest full dollar amount. This paragraph applies only to weeks of unemployment beginning on or after July 5, 1992.

(5) DURATION OF BENEFITS.—

(b) If the remuneration of an individual is not based upon a fixed period or duration of time or if the individual's wages are paid at irregular intervals or in such manner as not to extend regularly over the period of employment, the wages for any week or for any calendar quarter for the purpose of computing an individual's right to employment benefits only shall be determined in such manner as may by rule be prescribed. Such rules, so far as possible, shall secure results reasonably similar to those which would prevail if the individual were paid her or his wages at regular intervals.

(6) EXTENDED BENEFITS.—

(a) Definitions.—As used in this subsection, unless the context clearly requires otherwise, the term:

1. "Extended benefit period" means a period which:

a. Begins with the third week after a week for which there is a state "on" indicator; and

b. Ends with either of the following weeks, whichever occurs later:

(I) The third week after the first week for which there is a state "off" indicator; or

(II) The 13th consecutive week of such period.

However, no extended benefit period may begin by reason of a state "on" indicator before the 14th week following the end of a prior extended benefit period which was in effect with respect to this state.

2. There is a “state ‘on’ indicator” for a week if the rate of insured unemployment (not seasonally adjusted) under the state law, for the period consisting of such week and the 12 weeks immediately preceding it:

a. Equaled or exceeded 120 percent of the average of such rates for the corresponding 13-week period ending in each of the preceding 2 calendar years; and

b. Equaled or exceeded 5 percent.

3. There is a “state ‘off’ indicator” for a week if, for the period consisting of such week and the immediately preceding 12 weeks, either sub-subparagraph a. or sub-subparagraph b. of subparagraph 2. was not satisfied.

4. “Rate of insured unemployment,” for purposes of subparagraphs 2. and 3., means the percentage derived by dividing the average weekly number of individuals filing claims for regular compensation in this state excluding extended benefit claimants for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the division on the basis of its reports to the United States Secretary of Labor, by the average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the end of such 13-week period.

5. “Regular benefits” means benefits payable to an individual under this chapter or under any other state law, including benefits payable to federal civilian employees and to ex-service members ~~ex-servicemen~~ pursuant to 5 U.S.C. chapter 85, other than extended benefits.

6. “Extended benefits” means benefits, including benefits payable to federal civilian employees and to ex-service members ~~ex-servicemen~~ pursuant to 5 U.S.C. chapter 85, payable to an individual under the provisions of this subsection for weeks of unemployment in her or his eligibility period.

7. “Eligibility period” of an individual means the period consisting of the weeks in her or his benefit year which begin in an extended benefit period and, if her or his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

8. “Exhaustee” means an individual who, with respect to any week of unemployment in her or his eligibility period:

a. Has received, prior to such week, all of the regular benefits that were available to her or him under this chapter or any other state law, including dependents’ allowances and benefits payable to federal civilian employees and ex-service members ~~ex-servicemen~~ under 5 U.S.C. chapter 85, in her or his current benefit year that includes such week. For the purposes of this subparagraph, an individual shall be deemed to have received all of the regular benefits that were available to her or him although, as a result of a pending appeal with respect to wages paid for insured work that were not considered in the original monetary determination in her or his benefit year, she or he may subsequently be determined to be entitled to added regular benefits;

b. Her or his benefit year having expired prior to such week, has been paid no, or insufficient, wages for insured work on the basis of which she or he could establish a new benefit year that would include such week; and

c.(I) Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act or such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and

(II) Has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but if she or he is seeking such benefits and the appropriate agency finally determines that she or he is not entitled to benefits under such law, she or he is considered an exhaustee.

(c) Eligibility requirements for extended benefits.—

1. An individual shall be eligible to receive extended benefits with respect to any week of unemployment in her or his eligibility period only if the division finds that, with respect to such week:

a. She or he is an exhaustee as defined in subparagraph (a)8.

b. She or he has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits. An individual who is disqualified to receive regular benefits due to her or his having voluntarily left work, having been discharged from work for misconduct, or having refused suitable work may not receive extended benefits even after the disqualification period for regular benefits has terminated. However, if the disqualification period for regular benefits terminates because the individual received the required amount of remuneration for services rendered as a common-law employee, she or he may receive extended benefits.

c. The individual has been paid wages for insured work with respect to the applicable benefit year equal to one-and-one-half times the high quarter earnings during this base period.

2.a. Except as provided in sub-subparagraph b., an individual shall not be eligible for extended benefits for any week if:

(I) Extended benefits are payable for such week pursuant to an interstate claim filed in any state under the interstate benefit payment plan, and

(II) No extended benefit period is in effect for such week in such state.

b. This subparagraph shall not apply with respect to the first 2 weeks for which extended benefits are payable, pursuant to an interstate claim filed under the interstate benefit payment plan, to the individual from the extended benefit account established for the individual with respect to the benefit year.

3.a. An individual shall be disqualified for receipt of extended benefits if the division finds that, during any week of unemployment in her or his eligibility period:

(I) She or he has failed to apply for suitable work or, if offered, has failed to accept suitable work, unless the individual ~~he~~ can furnish to the division satisfactory evidence that her or his prospects for obtaining work in her or his customary occupation within a reasonably short period are good. If such evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to such individual shall be made in accordance with the definition of suitable work contained in s. 443.101(2). Such disqualification shall begin with the week in which such failure occurred and shall continue until she or he has been employed for at least 4 weeks and has earned wages equal to or in excess of 17 times her or his weekly benefit amount.

(II) She or he has failed to furnish tangible evidence that she or he has actively engaged in a systematic and sustained effort to find work. Such disqualification shall begin with the week in which such failure occurred and shall continue until she or he has been employed for at least 4 weeks and has earned wages equal to or in excess of 4 times her or his weekly benefit amount.

b. Except as otherwise provided in sub-sub-paragraph a.(I), for purposes of this subparagraph, the term "suitable work" means any work which is within the individual's capabilities to perform, if:

(I) The gross average weekly remuneration payable for the work exceeds the sum of the individual's weekly benefit amount plus the amount, if any, of supplemental unemployment benefits, as defined in s. 501(c)(17)(D) of the Internal Revenue Code of 1954, as amended, payable to such individual for such week;

(II) The wages payable for the work equal the higher of the minimum wages provided by s. 6(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption, or the state or local minimum wage;

(III) The position was offered to the individual in writing and was listed with the State Employment Service; and

(IV) Such work otherwise meets the definition of suitable work contained in s. 443.101(2) to the extent that such criteria of suitability are not inconsistent with the provisions of this subparagraph.

4. However, notwithstanding subparagraph 3., or any other provision of this chapter, an individual who is in training approved under s. 236(a)(1) of the Trade Act of 1974, as amended, may not be determined to be ineligible or disqualified for extended benefits with respect to her or his enrollment in such training or because of leaving work which is not suitable employment to enter such training. For the purposes of this subparagraph, the term "suitable employment" means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, as defined for purposes of the Trade Act of 1974, as amended,

the wages for which are not less than 80 percent of the worker's average weekly wage, as determined for purposes of the Trade Act of 1974, as amended.

(d) Weekly extended benefit amount.—The weekly extended benefit amount payable to an individual for a week of total unemployment in her or his eligibility period shall be an amount equal to the weekly benefit amount payable to her or him during her or his applicable benefit year. For any individual who was paid benefits during the applicable benefit year in accordance with more than one weekly benefit amount, the weekly extended benefit amount shall be the average of such weekly benefit amounts.

(e) Total extended benefit amount.—

1. Except as provided in subparagraph 2., the total extended benefit amount payable to any eligible individual with respect to her or his applicable benefit year shall be the lesser of the following amounts:

a. Fifty percent of the total amount of regular benefits which were payable to her or him under this chapter in her or his applicable benefit year; or

b. Thirteen times her or his weekly benefit amount which was payable to her or him under this chapter for a week of total unemployment in the applicable benefit year.

2. Notwithstanding any other provision of this chapter or any federal law, if the benefit year of an individual ends within an extended benefit period, the number of weeks of extended benefits that such individual would, but for this paragraph, be entitled to receive in that extended benefit period with respect to weeks of unemployment beginning after the end of the benefit year shall be reduced (but not to below zero) by the number of weeks for which the individual received, within such benefit year, trade readjustment allowances under the Trade Act of 1974, as amended.

(h) Recovery of overpayments under the Trade Act of 1974, as amended.—Any person who has been determined by either this state, a cooperating state agency, the United States Secretary of Labor, or a court of competent jurisdiction to have received any payments under the Trade Act of 1974, as amended, to which the person was not entitled shall have such sum deducted from any extended benefits payable to her or him under this section, except that no single deduction under this paragraph shall exceed 50 percent of the amount otherwise payable. The amounts so deducted shall be paid to the agency which issued the payments under the Trade Act of 1974, as amended, for return to the United States Treasury. However, except for overpayments determined by a court of competent jurisdiction, no deduction may be made under this paragraph until a determination by the state agency or the United States Secretary of Labor has become final.

(7) SHORT-TIME COMPENSATION PROGRAM.—

(e) Eligibility requirements for short-time compensation benefits.—

1. Except as provided in this paragraph, an individual is eligible to receive short-time compensation benefits with respect to any week only if she or he has satisfied the requirements of this chapter and the division finds that:

a. The individual is employed as a member of an affected unit in an approved plan which was approved prior to the week and is in effect for the week.

b. The individual is able to work and is available for additional hours of work or for full-time work with the short-time employer.

c. The normal weekly hours of work of the individual were reduced by at least 10 percent but not by more than 40 percent, with a corresponding reduction in wages.

2. The division may not deny short-time compensation benefits to an individual who is otherwise eligible for such benefits for any week by reason of the application of any provision of this chapter relating to availability for work, active search for work, or refusal to apply for or accept work from other than the short-time compensation employer of such individual.

3. Notwithstanding any other provision of this chapter, an individual is deemed unemployed in any week for which compensation is payable to her or him, as an employee in an affected unit, for less than her or his normal weekly hours of work in accordance with an approved short-time compensation plan in effect for the week.

(f) Weekly short-time compensation benefit amount.—The weekly short-time compensation benefit amount payable to an individual shall be an amount equal to the product of her or his weekly benefit amount as provided in subsection (2) and the ratio of the number of normal weekly hours of work for which the employer would not compensate the individual to the individual's normal weekly hours of work. Such benefit amount, if not a multiple of \$1, shall be rounded downward to the next lower multiple of \$1.

Section 1062. Paragraph (b) of subsection (1) of section 443.111, Florida Statutes (1996 Supplement), if subsection (1) expires pursuant to a specific provision of law which provides for the expiration of said subsection, as reenacted and amended by section 6 of chapter 94-347, Laws of Florida, is amended to read:

443.111 Payment of benefits.—

(1) MANNER OF PAYMENT.—Benefits shall be payable from the fund in accordance with such rules as the division may prescribe, subject to the following requirements and exceptions:

(b) Each claimant shall report in person to a claims office to certify for benefits which are paid and shall continue to report at least biweekly to receive unemployment benefits and to attest to the fact that she or he is able and available for work, has not refused suitable work, and is seeking work and, if she or he has worked, to report earnings from such work.

Nothing herein shall be construed to prohibit the division from instituting experimental and limited projects whereby claims checks are mailed; however, the division may not implement such projects statewide until a report has been made to the Legislature and the Legislature has approved such implementation.

Section 1063. Subsections (1) and (2), paragraphs (a), (b), (e), (g), (h), (i), and (k) of subsection (3), and paragraphs (b) and (d) of subsection (4) of section 443.131, Florida Statutes (1996 Supplement), are amended to read:

443.131 Contributions.—

(1) **WHEN PAYABLE.**—Contributions shall accrue and become payable by each employer for each calendar quarter in which he or she is subject to this chapter, with respect to wages paid during such calendar quarter for employment. Such contributions shall become due and be paid by each employer to the division for the fund, in accordance with such rules as the division may prescribe. However, nothing in this subsection shall be construed to prohibit the division from allowing, on a limited basis, at the request of the employer, certain employers of employees performing domestic services, as defined in s. 443.036(19)(g) and by rule of the division, to pay contributions or report wages at intervals other than quarterly when such payment or reporting is to the advantage of the division and the employers, and when such nonquarterly payment and reporting is authorized under federal law. This provision gives employers of employees performing domestic services the option to elect to report wages and pay taxes annually, with a due date of April 1 and a delinquency date of April 30. In order to qualify for this election, the employer must have only domestic employees, be in good standing, apply to this program no later than December 30 of the preceding calendar year, and agree to provide the division with any special reports which might be requested, as required by rule 38B-2.025(5), including copies of all federal employment tax forms. Failure to furnish any information when required may result in the employer's loss of the privilege to elect participation in this program. Contributions shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ. In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(2) **RATES.**—Each employer is required to pay contributions equal to the following percentages of wages paid by him or her with respect to employment:

(a) Each employer whose employment record has been chargeable with benefit payments for less than eight calendar quarters shall pay contributions at the initial rate of 2.7 percent with respect to wages paid on or after January 1, 1978.

(b) Each employer whose employment record has been chargeable with benefit payments for at least eight calendar quarters shall pay contributions at the rate of 5.4 percent, except as otherwise determined by experience rating provisions of this chapter. For the purposes of this section, the total wages on which contributions have been paid by a single employer or his or

her predecessor to an individual in any state within a single calendar year shall be counted to determine whether more remuneration than constitutes wages has been paid to such individual by such employer or his or her predecessor in 1 calendar year.

(c)1. Should the Congress either amend or repeal the Wagner-Peyser Act, the Federal Unemployment Tax Act, the Social Security Act, or subtitle C of the Internal Revenue Code, any act or acts supplemental to or in lieu thereof, or any part or parts of either or all of said laws, or should either or all of said laws, or any part or parts thereof, be held invalid, to the end and with such effect that appropriations of funds by the Congress and grants thereof to this state for the payment of costs of administration of the division become no longer available for such purposes, or should employers in this state subject to the payment of tax under the Federal Unemployment Tax Act be granted full credit upon such a tax for contributions or taxes paid to the Unemployment Compensation Trust Fund, then in such case, beginning with the effective date of such change in liability for payment of such federal tax, and for each year thereafter, the standard contribution rate under this chapter shall be 3 percent per annum of each such employer's payroll subject to contributions. With respect to each such employer having a reduced rate of contribution for such year pursuant to the terms of subsection (3), to the rate of contribution, as determined for such year in which such change occurs, shall be added three-tenths of 1 percent.

2. The amount of the excess of tax for which such employer is or may become liable, by reason of this subsection, over the amount which such employer would pay or become liable for except for the provisions of this subsection, shall be paid and transferred into the Employment Security Administration Trust Fund to be disbursed and paid out under the same conditions and for the same purposes as are other moneys provided to be paid into such fund; provided, that if the division determines that as of January 1 of any year, there is an excess in the fund over the moneys and funds required to be disbursed therefrom for the purposes thereof for such year, then, and in such cases an amount equal to such excess, as determined by the division, shall be transferred to and become a part of the Unemployment Compensation Trust Fund, and such funds shall be deemed to be and are hereby appropriated for the purposes set out in this chapter.

(d) In the event that the Federal Unemployment Tax Act is amended to permit credit against such tax in excess of 2.7 percent with respect to any calendar year, payment of the amount of contributions necessary to qualify an employer for such additional credit shall be deemed to be required under this chapter.

(3) CONTRIBUTION RATES BASED ON BENEFIT EXPERIENCE.—

(a) The regular and short-time compensation benefit payments made to any eligible individual shall be charged to the employment record of each employer who paid such individual wages equal to \$100 or more within the base period of such individual in the proportion to which wages paid by each such employer to such individual within the base period bears to total wages paid by all such employers to such individual within the base period. No

benefit charges shall be made to the employment record of any employer who has furnished part-time work to an individual who, because of loss of employment with one or more other employers, becomes eligible for partial benefits while still being furnished part-time work by such employer on substantially the same basis and in substantially the same amount as has been made available to such worker during his or her base period, whether the employments were simultaneous or successive. Further, benefit payments will not be charged to the accounts of employers when such employers have furnished the division with such notices regarding separations of individuals from work and the refusal of individuals to accept offers of suitable work as are required by the provisions of this chapter and the rules of the division, if one or more of the following conditions are found to be applicable:

1. When an individual has left his or her job without good cause attributable to his or her employer or has been discharged by his or her employer for misconduct connected with his or her work, no benefits subsequently paid to him or her on the basis of wages paid to such individual by such employer prior to such separation shall be charged to such employer's account.

2. When an individual has been discharged by an employer for unsatisfactory performance during an initial employment probationary period, no benefits subsequently paid to the individual on the basis of wages paid to such individual in the probationary period by the employer prior to employment separation shall be charged to the employer's account, provided the employer has so notified the division in writing within 10 days from the mailing date of the notice of initial determination of a claim. As used in this paragraph, the term "probationary period" means an established probationary plan which applies to all employees or a specific group of employees and does not exceed 90 calendar days from the first day a new employee begins work. The employee must be informed of the probationary period within the first 7 workdays. There must be conclusive evidence to establish that the individual was separated due to unsatisfactory work performance and not separated because of lack of work due to temporary, seasonal, casual, or other similar employment not of a regular, permanent, and year-round nature.

3. Benefits which are paid to any individual subsequent to the refusal without good cause by such individual of an offer of suitable employment from an employer will not be charged to the account of such employer when all or any part of such benefits are upon the basis of wages paid to such individual by such employer prior to the refusal by such individual to accept such offer of suitable work. For purposes of this subparagraph, good cause does not include distance to employment due to a change of residence by such individual. (The division shall determine with respect to the payment of all benefits whether this proviso shall be applied without regard to whether a disqualification pursuant to the provisions of s. 443.101 has or may be invoked against a claimant or claimants for benefits.)

4. When an individual is separated from an employer as a direct result of a natural disaster declared pursuant to the Disaster Relief Act of 1974 and the Disaster Relief and Emergency Assistance Amendments of 1988, no

benefits subsequently paid to the individual on the basis of wages paid to such individual shall be charged to such employer's account.

In the event subparagraph 2. has the effect of placing this state out of compliance with the Federal Unemployment Compensation Law, as determined by the appropriate court of law, by affecting the amount of federal funds due to the state or adversely affecting the unemployment compensation tax rate, then subparagraph 2. shall be null and void and shall stand repealed upon the date on which any of such conditions occur.

(b)1. The division shall, for each calendar year, compute a benefit ratio for each employer whose employment record has been chargeable with benefit payments for the 12 consecutive quarters ending June 30 preceding the calendar year for which the benefit ratio is computed. An employer's benefit ratio shall be the quotient obtained by dividing the total benefit payments chargeable to his or her employment record during the 3-year period ending June 30 of the preceding calendar year by the total of his or her annual payrolls (as defined in paragraph (f)) for the 3-year period ending June 30 of the preceding calendar year. Such benefit ratio shall be computed to the fifth decimal place and rounded to the fourth decimal place.

2. The division shall compute a benefit ratio for each employer not previously eligible therefor whose initial tax rate is 2.7 percent and whose unemployment has been chargeable with benefit payments for at least 8 calendar quarters immediately preceding the calendar quarter for which the benefit ratio is computed. Such employer's benefit ratio shall be the quotient obtained by dividing the total benefit payments charged to his or her employment record during the first 6 of 8 completed calendar quarters immediately preceding the calendar quarter for which the benefit ratio is computed by the total of the employer's his annual payrolls (as defined in paragraph (f)) for the first 7 of the 9 completed calendar quarters immediately preceding the calendar quarter for which the benefit ratio is computed. Such benefit ratio shall be computed to the fifth decimal place and rounded to the fourth decimal place and shall be applicable for the remainder of the calendar year. The employer will next be rated on an annual basis using up to 12 calendar quarters of benefits charged and up to 12 calendar quarters of annual payrolls. Such employer's benefit ratio shall be the quotient obtained by dividing the total benefit payments charged to his or her employment record by the total of the employer's his annual payrolls, as defined in paragraph (f), for the quarters used in his or her first computation plus the subsequent quarters reported through June 30 of the prior year. Each year thereafter the rate will be computed as provided in subparagraph 1. Variation from the standard rate of contribution shall be assigned on a quarterly basis to such employers eligible therefor in like manner as assignments made for a calendar year under paragraph (e).

(e)1. Variations from the standard rate of contributions shall be assigned with respect to each calendar year to employers eligible therefor. In determining the contribution rate, varying from the standard rate to be assigned each employer, adjustment factors provided for in sub-subparagraphs a.-c. will be added to the benefit ratio. This addition will be accomplished in two steps by adding a variable adjustment factor and a final adjustment factor

as defined below. The sum of these adjustment factors provided for in sub-subparagraphs a.-c. will first be algebraically summed. The sum of these adjustment factors will then be divided by a gross benefit ratio to be determined as follows: Total benefit payments for the previous 3 years, as defined in subparagraph (b)1., charged to employers eligible to be assigned a contribution rate different from the standard rate minus excess payments for the same period divided by taxable payroll entering into the computation of individual benefit ratios for the calendar year for which the contribution rate is being computed. The ratio of the sum of the adjustment factors provided for in sub-subparagraphs a.-c. to the gross benefit ratio will be multiplied by each individual benefit ratio below the maximum tax rate to obtain variable adjustment factors; except that in any instance in which the sum of an employer's individual benefit ratio and variable adjustment factor exceeds the maximum tax rate, the variable adjustment factor will be reduced so that the sum equals the maximum tax rate. The variable adjustment factor of each such employer will be multiplied by his or her taxable payroll entering into the computation of his or her benefit ratio. The sum of these products will be divided by the taxable payroll of such employers that entered into the computation of their benefit ratios. The resulting ratio will be subtracted from the sum of the adjustment factors provided for in sub-subparagraphs a.-c. to obtain the final adjustment factor. The variable adjustment factors and the final adjustment factor will be computed to five decimal places and rounded to the fourth decimal place. This final adjustment factor will be added to the variable adjustment factor and benefit ratio of each employer to obtain each employer's contribution rate; however, at no time shall an employer's contribution rate be rounded to less than 0.1 percent.

a. An adjustment factor for noncharge benefits will be computed to the fifth decimal place, and rounded to the fourth decimal place, by dividing the amount of benefit payments noncharged in the 3 preceding years as defined in subparagraph (b)1. by the taxable payroll of employers eligible to be considered for assignment of a contribution rate different from the standard rate that have a benefit ratio for the current year less than the maximum contribution rate. The taxable payroll of such employers will be the taxable payrolls for the 3 years ending June 30 of the current calendar year that had been reported to the division by September 30 of the same calendar year. Noncharge benefits for the purpose of this section shall be defined as benefit payments to an individual which were paid from the Unemployment Compensation Trust Fund but which were not charged to the unemployment record of any employer.

b. An excess payments adjustment factor will be computed to the fifth decimal place, and rounded to the fourth decimal place, by dividing the total excess payments during the 3 preceding years as defined in subparagraph (b)1. by the taxable payroll of employers eligible to be considered for assignment of a contribution rate different from the standard rate that have a benefit ratio for the current year less than the maximum contribution rate. The taxable payroll of such employers will be the same as used in computing the noncharge adjustment factor as described in sub-subparagraph a. The term "excess payments" for the purpose of this section is defined as the

amount of benefit payments charged to the employment record of an employer during the 3 preceding years, as defined in subparagraph (b)1., less the product of the maximum contribution rate and his or her taxable payroll for the 3 years ending June 30 of the current calendar year that had been reported to the division by September 30 of the same calendar year. The term "total excess payments" is defined as the sum of the individual employer excess payments for those employers that were eligible to be considered for assignment of a contribution rate different from the standard rate.

c. If the balance in the Unemployment Compensation Trust Fund as of June 30 of the calendar year immediately preceding the calendar year for which the contribution rate is being computed is less than 4 percent of the taxable payrolls for the year ending June 30 as reported to the division by September 30 of that calendar year, a positive adjustment factor will be computed. Such adjustment factor shall be computed annually to the fifth decimal place, and rounded to the fourth decimal place, by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the division by September 30 of such calendar year into a sum equal to one-fourth of the difference between the amount in the fund as of June 30 of such calendar year and the sum of 5 percent of the total taxable payrolls for that year. Such adjustment factor will remain in effect in subsequent years until a balance in the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the effective date of such contribution rate equals or exceeds 4 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the division by September 30 of that calendar year. If the balance in the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the calendar year for which the contribution rate is being computed exceeds 5 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the division by September 30 of that calendar year, a negative adjustment factor will be computed. Such adjustment factor shall be computed annually to the fifth decimal place, and rounded to the fourth decimal place, by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the division by September 30 of such calendar year into a sum equal to one-fourth of the difference between the amount in the fund as of June 30 of the current calendar year and 5 percent of the total taxable payrolls of such year. Such adjustment factor will remain in effect in subsequent years until the balance in the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the effective date of such contribution rate is less than 5 percent but more than 4 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the division by September 30 of that calendar year.

d. The maximum contribution rate that can be assigned to any employer shall be 5.4 percent, except those employers participating in an approved short-time compensation plan in which case the maximum shall be 1 percent above the current maximum contribution rate, with respect to any calendar year in which short-time compensation benefits are in the employer's employment record.

2. In the event of the transfer of employment records to an employing unit pursuant to paragraph (g) which, prior to such transfer, was an employer, the division shall recompute a benefit ratio for the successor employer on the basis of the combined employment records and reassign an appropriate contribution rate to such successor employer as of the beginning of the calendar quarter immediately following the effective date of such transfer of employment records.

(g)1. For the purposes of this subsection, two or more employers who are parties to a transfer of business or the subject of a merger, consolidation, or other form of reorganization, effecting a change in legal identity or form, shall be deemed to be a single employer and shall be considered as one employer with a continuous employment record if the division finds that the successor employer continues to carry on the employing enterprises of the predecessor employer or employers and that the successor employer has paid all contributions required of and due from the predecessor employer or employers and has assumed liability for all contributions that may become due from the predecessor employer or employers. As used in this paragraph, the term "contributions" means all indebtedness to the division, including, but not limited to, interest, penalty, collection fee, and service fee. A successor has 30 days from the date of the official notification of liability by succession to accept the transfer of the predecessor's or predecessors' employment record or records. If the predecessor or predecessors have unpaid contributions or outstanding quarterly reports, the successor has 30 days from the date of the notice listing the total amount due to pay the total amount with certified funds. After the total indebtedness has been paid, the employment record or records of the predecessor or predecessors will be transferred to the successor.

2. Whether or not there is a transfer of employment record as contemplated in this paragraph, the predecessor shall in the event he or she again employs persons be treated as an employer without previous employment record or, if his or her coverage has been terminated as provided in s. 443.121, as a new employing unit.

3. The division may provide by rule for partial transfer of experience rating when an employer has transferred at any time an identifiable and segregable portion of his or her payrolls and business to a successor employing unit. As a condition of such partial transfer of experience, the rules shall require an application by the successor, agreement by the predecessor, and such evidence as the division may prescribe of the experience and payrolls attributable to the transferred portion up to the date of transfer. The rules shall provide that the successor employing unit, if not already an employer, shall become an employer as of the date of the transfer and that the experience of the transferred portion of the predecessor's account shall be removed from the experience-rating record of the predecessor, and for each calendar year following the date of the transfer of the employment record on the books of the division, the division shall compute the rate of contribution payable by the successor on the basis of his or her experience, if any, combined with the experience of the portion of the record transferred. The rules may also provide what rates shall be payable by the predecessor and successor employers for the period between the date of the transfer of the employment

record of the transferred unit on the books of the division and the first day of the next calendar year.

4. This paragraph shall not apply to the employee leasing company and client contractual agreement as defined in s. 443.036. The client shall, in the event of termination of the contractual agreement or failure by the employee leasing company to submit reports or pay contributions as required by the division, be treated as a new employer without previous employment record unless otherwise eligible for a rate computation.

(h) No reduction below the standard contribution rate shall be allowed an employer under the provisions of this section unless:

1. All contributions, interest, and penalties incurred by such employer with respect to wages paid by him or her in all previous calendar quarters, except the 4 calendar quarters immediately preceding the calendar quarter or calendar year for which the benefit ratio is computed, have been paid; and

2. The employer entitled thereto shall have at least one annual payroll as defined in paragraph (f) and unless such employer is eligible for additional credit under the provisions of the Federal Unemployment Tax Act; and in the event the Federal Unemployment Tax Act shall be revised, amended, or repealed, this section shall be applicable only to the extent that additional credit may be allowed against the payment of the tax imposed by the Federal Unemployment Tax Act.

An earned tax rate will be assigned to an employer under subparagraph 1. the quarter following the quarter in which the aforesaid indebtedness is paid in full.

(i) The division:

1. Shall promptly notify each employer of his or her rate of contributions as determined for any calendar year pursuant to this section. Such determination shall become conclusive and binding upon the employer unless within 20 days after the mailing of notice thereof to his or her last known address, or, in the absence of mailing, within 20 days after the delivery of such notice, the employer files an application for review and redetermination setting forth his or her reasons therefor. No employer shall be allowed, in any proceeding involving his or her rate of contributions or contribution liability, to contest the chargeability to his or her account of any benefits paid in accordance with a determination, redetermination, or decision pursuant to s. 443.151, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him or her and then only in the event that the employer ~~he~~ was not a party to such determination, redetermination, or decision or to any other proceedings provided for in this chapter in which the character of such services was determined.

2. Shall, upon the discovery of an error in computation, reconsider any prior determination or redetermination of contribution rate after the 20-day period has expired and issue a revised notice of contribution rate as so

redetermined. Such redetermination shall be subject to review, and become conclusive and binding in absence thereof, in the same manner as the determination provided in subparagraph 1. No such reconsideration shall be made after the March 31 immediately following the calendar year with respect to which the contribution rate is applicable, nor shall interest accrue on any additional contributions found to be due until 30 days after the employer is mailed notice of his or her revised contribution rate.

3. May provide by rule for periodic notification to employers of benefits paid and chargeable to their accounts or of the status of such accounts, and any such notification, in the absence of an application for redetermination filed in such manner and within such period as the division may prescribe, shall become conclusive and binding upon the employer for all purposes of this chapter. Such redetermination, and the division's finding of fact in connection therewith, may be introduced in any subsequent administrative or judicial proceeding involving the determination of the rate of contributions of any employer for any calendar year and shall be entitled to the same finality as is provided in this subsection with respect to the findings of fact made by the division in proceedings to redetermine the contribution rate of an employer. Pending such redetermination or administrative or judicial proceeding, the employer shall file reports and pay contributions in accordance with this section.

(k)1. If the division finds that an employer's business is closed solely because of the entrance of one or more of the owners, officers, partners, or the majority stockholder into the Armed Forces of the United States, or any of its allies, or of the United Nations, such employer's experience-rating record shall not be terminated; and, if the business is resumed within 2 years after the discharge or release from active duty in the armed forces of such person or persons, the employer's experience shall be deemed to have been continuous throughout such period. The benefit ratio of any such employer for the calendar year in which he or she resumed business and the 3 calendar years immediately following shall be a percentage equal to the total of his or her benefit charges (including charges of benefits paid to any individual during the period the employer was in the armed forces based upon wages paid by him or her prior to the employer's ~~his~~ entrance into such forces) for the 3 most recently completed calendar years divided by that part of his or her total payroll, with respect to which contributions have been paid to the division, for the 3 most recent calendar years during the whole of which, respectively, such employer has been in business.

2. No cash refund shall be made with respect to any adjustment required hereunder, but such refund shall be made by credit memorandum only.

(4) FINANCING BENEFITS PAID TO EMPLOYEES OF NONPROFIT ORGANIZATIONS.—Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this subsection. For the purpose of this subsection, a "nonprofit" organization is an organization or group of organizations described in s. 501(c)(3) of the United States Internal Revenue Code which is exempt from income tax under s. 501(a) of such code.

(b) Reimbursement payments.—Payments in lieu of contributions shall be made in accordance with the provisions of this paragraph.

1. At the end of each calendar quarter or at the end of any other period as determined by the division, the division shall bill each nonprofit organization, or group of such organizations, which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such organization.

2. Payment of any bill rendered under subparagraph 1. shall be made not later than 30 days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review and redetermination in accordance with subparagraph 4.

3. Payments made by any nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

4. The amount due specified in any bill from the division shall be conclusive on the organization unless, not later than 20 days after the bill was mailed to its last known address or otherwise delivered to it, the organization files an application for redetermination by the division, setting forth the grounds for such application. The division shall promptly review and reconsider the amount due specified in the bill and shall thereafter issue a redetermination in any case in which such application for redetermination has been filed. Any such redetermination shall be conclusive on the organization unless, not later than 20 days after the redetermination was mailed to its last known address or otherwise delivered to it, the organization files its protest thereof, setting forth the grounds for the appeal. Proceedings on such protest shall be in accordance with the provisions of s. 443.141(2), relating to protests of assessments.

5. Past due payments of amounts in lieu of contributions shall be subject to the same interest and penalties that, pursuant to s. 443.141(1), apply to past due contributions.

6. Each employer who is liable for payments in lieu of contributions shall be charged his or her proportionate share of benefits, and the Unemployment Compensation Trust Fund shall be reimbursed in full.

(d) Allocations of benefit costs.—Each employer that is liable for payments in lieu of contributions shall pay to the division for the fund the amount of regular benefits, short-time compensation benefits, plus the amount of one-half of extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with the provisions of subparagraph 1. or subparagraph 2.

1. Proportionate allocation when fewer than all base-period employers are liable for reimbursement.—If benefits paid to an individual are based on wages paid by one or more employers that are liable for payments in lieu of contributions and on wages paid by one or more employers who are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bears to the total base-period wages paid to the individual by all of his or her base-period employers.

2. Proportionate allocation when all base-period employers are liable for reimbursement.—If benefits paid to an individual are based on wages paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bears to the total base-period wages paid to the individual by all of his or her base-period employers.

Section 1064. Paragraph (a) of subsection (3) of section 443.141, Florida Statutes (1996 Supplement), is amended to read:

443.141 Collection of contributions.—

(3) COLLECTION PROCEEDINGS.—

(a) Lien for payment of contributions.—

1. There is hereby created a lien in favor of the division upon all the property, both real and personal, of any employer who has become liable for the payment of any contribution levied and imposed upon it by this law for the amount of the contributions due and payable under the provisions hereof, together with interest, costs, and penalties; and if any contribution imposed by this chapter or any portion of such contribution or interest or penalty is not paid within 60 days after the same becomes delinquent, the division may thereafter issue a notice of lien under its official seal, which notice of lien may be filed in the office of the clerk of the circuit court of any county in which the delinquent employer owns property or has conducted business, and which notice of lien shall set forth the periods for which the contributions, interest, or penalties are demanded and the amounts thereof, a copy of which notice of lien shall be mailed to the employer at her or his last known address by registered mail. Provided, that notice of lien may be issued and recorded at the expiration of 15 days from the date assessment becomes final under the provisions of subsection (2). Upon presentation of the notice of lien, the clerk of the circuit court shall record it in a book maintained by her or him for that purpose, and thereupon the amount of the notice of lien, together with the cost of recording and interest accruing upon the contribution amount, shall become a lien upon the title to and interest, whether legal or equitable, in any real property, chattels real, or personal property of such employer against whom such notice of lien is issued, in the same manner as a judgment of the circuit court duly docketed in the office of such circuit court clerk with execution duly issued thereon and in the

hands of the sheriff for levy; and such lien shall be prior, preferred, and superior to all mortgages or other liens filed, recorded, or acquired subsequent to the time such notice of lien shall have been filed. Upon the payment of the amounts due thereunder, or upon determination by the division that such notice of lien was erroneously issued, the same may be satisfied of record by the division by an acknowledgment under the seal of the division that such lien has been fully satisfied. Such satisfaction need not be acknowledged before any notary or other public officer, and the seal of the division together with the signature of the director shall be conclusive evidence of the satisfaction of the lien, which satisfaction shall be recorded by the clerk of the circuit court who shall receive fees for such services as may be fixed by law for the recording of instruments generally.

2. The division may thereafter issue a warrant directed to all and singular sheriffs in the state, commanding them to levy upon and sell any real or personal property of the employer liable for any amount under this law within their respective jurisdictions, for the payment of the amount thereof, with the added penalties and interest and the costs of executing the warrant, together with the costs of the clerk of the circuit court in recording and docketing the notice of lien, and to return such warrant to the division and to pay to it the money collected by virtue thereof; such warrant shall issue and be enforced for all amounts due the division as of the date of issuance thereof, together with interest accruing on the contribution amount due from the employer to the date of payment at the rate provided herein; however, in the event of sale of any assets of the employer, priorities under the warrant shall be determined in accordance with the priority established by the notice or notices of lien filed by the division and recorded by the clerk of the circuit court. The sheriff shall proceed upon the warrant in all respects with like effect and in the same manner prescribed by law in respect to executions issued out of the office of the clerk of the circuit court upon judgments of the circuit court; and the sheriff shall be entitled to the same fees for her or his services in executing the warrant as under a writ of execution out of the circuit court, such fees to be collected in the same manner.

Section 1065. Paragraph (a) of subsection (1), paragraph (a) of subsection (3), paragraphs (a) and (b) of subsection (4), and paragraphs (a), (b), (c), and (e) of subsection (6) of section 443.151, Florida Statutes (1996 Supplement), are amended to read:

443.151 Procedure concerning claims.—

(1) POSTING OF INFORMATION.—

(a) Each employer shall post and maintain in places readily accessible to individuals in her or his employ printed statements concerning benefit rights, claims for benefits, and such other matters relating to the administration of this chapter as the division may by rule prescribe. Each employer shall supply to such individuals copies of such printed statements or other materials relating to claims for benefits when and as the division may by rule prescribe. Such printed statements and other materials shall be supplied by the division to each employer without cost to the employer.

(3) DETERMINATION.—

(a) In general.—An initial determination upon a claim filed pursuant to subsection (2) shall be made promptly by an examiner designated by the division, shall include a statement as to whether and in what amount claimant is entitled to benefits, and, in the event of a denial, shall state the reasons therefor. A determination with respect to the first week of a benefit year shall also include a statement as to whether the claimant has been paid the wages required under s. 443.091(1)(e) and, if so, the first day of the benefit year, the claimant's ~~his~~ weekly benefit amount, and the maximum total amount of benefits payable to the claimant ~~him~~ with respect to a benefit year. The claimant, the claimant's ~~his~~ most recent employing unit, and all employers whose accounts would be charged with benefits pursuant to such determination shall be promptly notified of such initial determination; and such determination shall be final unless within 20 days after the mailing of such notices to the parties' last known addresses, or in the absence of such mailing, within 20 days after the delivery of such notice, appeal or written request for reconsideration is filed by the claimant or other party entitled to such notice.

(4) APPEALS.—

(a) Appeals referees.—The division shall appoint one or more impartial salaried appeals referees selected in accordance with s. 443.171(4) to hear and decide appealed or disputed claims. Such appeals referees shall have such qualifications as may be established by the Department of Management Services upon the advice and consent of the division. No person shall participate on behalf of the division as an appeals referee in any case in which she or he is an interested party. The division may designate alternates to serve in the absence or disqualification of any appeals referee upon a temporary basis and pro hac vice which alternate shall be possessed of the same qualifications required of appeals referees. The division shall provide the commission and the appeals referees with proper facilities and assistance for the execution of their functions.

(b) Filing and hearing.—

1. The claimant or any other party entitled to notice of a determination as herein provided may file an appeal from such determination with an appeals referee within 20 days after the date of mailing of the notice to her or his last known address or, if such notice is not mailed, within 20 days after the date of delivery of such notice.

2. Notwithstanding the provisions of s. 120.569(2)(b), unless the appeal is withdrawn with her or his permission or is removed to the commission, the appeals referee, after mailing all parties and attorneys of record a notice of hearing at least 10 days prior to the date of hearing, shall affirm, modify, or reverse such determination; however, whenever an appeal involves a question as to whether services were performed by claimant in employment or for an employer, the referee shall give special notice of such issue and of the pendency of the appeal to the employing unit and to the division, both of which shall thenceforth be parties to the proceeding.

3. The parties shall be promptly notified of such referee's decision; and such decisions shall be final unless, within 20 days after the date of mailing of notice thereof to the party's last known address or, in the absence of such mailing, within 20 days after the delivery of such notice, further review is initiated pursuant to paragraph (c).

(6) RECOVERY AND RECOUPMENT.—

(a) Any person who, by reason of her or his fraud, has received any sum as benefits under this chapter to which she or he was not entitled shall be liable to repay such sum to the division for and on behalf of the trust fund or, in the discretion of the division, to have such sum deducted from future benefits payable to her or him under this chapter, provided a finding of the existence of such fraud has been made by a redetermination or decision pursuant to this section within 2 years from the commission of such fraud, and provided no such recovery or recoupment of such sum may be effected after 5 years from the date of such redetermination or decision.

(b) If any person, other than by reason of her or his fraud, has received any sum as benefits under this chapter to which, under a redetermination or decision pursuant to this section, she or he has been found not entitled, she or he shall be liable to repay such sum to the division for and on behalf of the trust fund or, in the discretion of the division, shall have such sum deducted from any future benefits payable to her or him under this chapter. No such recovery or recoupment of such sum may be effected after 2 years from the date of such redetermination or decision.

(c) No recoupment from future benefits shall be had if such sum was received by such person without fault on the person's ~~his~~ part and such recoupment would defeat the purpose of this chapter or would be against equity and good conscience.

(e) Notwithstanding any other provision of this chapter, any person who has been determined by either this state, a cooperating state agency, the United States Secretary of Labor, or a court of competent jurisdiction to have received any payments under the Trade Act of 1974, as amended, to which the person was not entitled shall have such sum deducted from any regular benefits, as defined in s. 443.111(5)(a)5., payable to her or him under this chapter; except that no single deduction under this paragraph shall exceed 50 percent of the amount otherwise payable. The amounts so deducted shall be paid to the agency which issued the payments under the Trade Act of 1974, as amended, for return to the United States Treasury. However, except for overpayments determined by a court of competent jurisdiction, no deduction may be made under this paragraph until a determination by the state agency or the United States Secretary of Labor has become final.

Section 1066. Paragraph (c) of subsection (5), subsection (7), as amended by section 5 of chapter 93-414, Laws of Florida, and section 77 of chapter 94-136, Laws of Florida, and subsections (9) and (10) of section 443.171, Florida Statutes (1996 Supplement), are amended to read:

443.171 Division and commission; powers and duties; rules; advisory council; records and reports.—

(5) UNEMPLOYMENT COMPENSATION ADVISORY COUNCIL.—There is created a state Unemployment Compensation Advisory Council to assist the division in reviewing the unemployment insurance program and to recommend improvements for such program.

(c) The council shall meet at the call of its ~~chair~~ chairman, at the request of a majority of its membership, at the request of the division, or at such times as may be prescribed by its rules, but not less than twice a year. The council shall make a report of each meeting, which shall include a record of its discussions and recommendations. The division shall make such reports available to any interested person or group.

(7) RECORDS AND REPORTS.—Each employing unit shall keep true and accurate work records, containing such information as the division may prescribe. Such records shall be open to inspection and be subject to being copied by the division at any reasonable time and as often as may be necessary. The division or an appeals referee may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, deemed necessary for the effective administration of this chapter. Information revealing the employing unit's or individual's identity thus obtained from the employing unit or from any individual pursuant to the administration of this chapter, shall, except to the extent necessary for the proper presentation of a claim or upon written authorization of the claimant who has a workers' compensation claim pending, be held confidential and exempt from the provisions of s. 119.07(1). Such information shall be available only to public employees in the performance of their public duties, including employees of the Department of Education in obtaining information for the Florida Education and Training Placement Information Program and the Department of Commerce in its administration of the qualified defense contractor tax refund program authorized by s. 288.104, the qualified target industry business tax refund program authorized by s. 288.106. Any claimant, or the claimant's ~~his~~ legal representative, at a hearing before an appeals referee or the commission shall be supplied with information from such records to the extent necessary for the proper presentation of her or his claim. Any employee or member of the commission or any employee of the division, or any other person receiving confidential information, who violates any provision of this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. However, the division may furnish to any employer copies of any report previously submitted by such employer, upon the request of such employer, and the division is authorized to charge therefor such reasonable fee as the division may by rule prescribe not to exceed the actual reasonable cost of the preparation of such copies. Fees received by the division for copies provided under this subsection shall be deposited to the credit of the Employment Security Administration Trust Fund.

(9) SUBPOENAS.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, any court of this state within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found, resides, or transacts business, upon application by the division, the commission, or an appeals referee or any duly authorized representative of any of them, shall have

jurisdiction to issue to such person an order requiring such person to appear before the division, the commission, or an appeals referee or any duly authorized representative of any of them, there to produce evidence if so ordered or there to give testimony touching on the matter under investigation or in question; and any failure to obey such order of the court may be punished by the court as a contempt thereof. Any person who shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in her or his power to do so, in obedience to a subpoena of the division, the commission, or an appeals referee or any duly authorized representative of any of them is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; and each day such violation continues is a separate offense.

(10) PROTECTION AGAINST SELF-INCRIMINATION.—No person shall be excused from attending and testifying, or from producing books, papers, correspondence, memoranda, and other records, before the division, the commission, or an appeals referee or any duly authorized representative of any of them or in obedience to the subpoena of any of them in any cause or proceeding before the division, the commission, or an appeals referee, on the ground that the testimony or evidence, documentary or otherwise, required of the person ~~him~~ may tend to incriminate her or him or subject her or him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which she or he is compelled, after having claimed her or his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Section 1067. Subsection (1) of section 443.1715, Florida Statutes (1996 Supplement), is amended to read:

443.1715 Disclosure of information; confidentiality.—

(1) RECORDS AND REPORTS.—Information revealing the employing unit's or individual's identity obtained from the employing unit or from any individual pursuant to the administration of this chapter, and any determination revealing such information, must, except to the extent necessary for the proper presentation of a claim or upon written authorization of the claimant who has a workers' compensation claim pending, be held confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such information may be made available only to public employees in the performance of their public duties, including employees of the Department of Education in obtaining information for the Florida Education and Training Placement Information Program and the Department of Commerce in its administration of the qualified defense contractor tax refund program authorized by s. 288.104. Except as otherwise provided by law, public employees receiving such information must retain the confidentiality of such information. Any claimant, or the claimant's ~~his~~ legal representative, at a hearing before an appeals referee or the commission shall be supplied with information from such records to the extent necessary for the

proper presentation of her or his claim. Any employee or member of the commission or any employee of the division, or any other person receiving confidential information, who violates any provision of this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. However, the division may furnish to any employer copies of any report previously submitted by such employer, upon the request of such employer, and may furnish to any claimant copies of any report previously submitted by such claimant, upon the request of such claimant, and the division is authorized to charge therefor such reasonable fee as the division may by rule prescribe not to exceed the actual reasonable cost of the preparation of such copies. Fees received by the division for copies as provided in this subsection must be deposited to the credit of the Employment Security Administration Trust Fund.

Section 1068. Paragraphs (a) and (b) of subsection (1) of section 443.221, Florida Statutes (1996 Supplement), are amended to read:

443.221 Reciprocal arrangements.—

(1)(a) The division is authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the Federal Government, or both, whereby services performed by an individual for a single employing unit for which services are customarily performed by such individuals in more than one state shall be deemed to be services performed entirely within any one of the states:

1. In which any part of such individual's service is performed;
2. In which such individual has her or his residence; or
3. In which the employing unit maintains a place of business,

provided there is in effect as to such services an election, approved by the agency charged with the administration of such state's unemployment compensation law, pursuant to which all the services performed by such individual for such employing unit are deemed to be performed entirely within such state.

(b) The division shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment covered under this chapter with her or his wages and employment covered under the unemployment compensation laws of other states, which are approved by the United States Secretary of Labor, in consultation with the state unemployment compensation agencies, as reasonably calculated to assure the prompt and full payment of compensation in such situations and which include provisions for:

1. Applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws, and
2. Avoiding the duplicate use of wages and employment by reason of such combining.

Section 1069. Paragraph (d) of subsection (2) of section 443.231, Florida Statutes (1996 Supplement), is amended to read:

443.231 Florida Training Investment Program.—The Florida Training Investment Program is designed to extend additional benefit eligibility to dislocated workers throughout Florida who have lost their jobs, have limited marketable skills, and enroll in vocational training intended to lead to employment in a recognized occupation for which there is labor market demand. Pursuant thereto:

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

(d) “Dislocated worker” means an individual who has been terminated or laid off or has received a notice of termination or layoff from employment, who is eligible for, or has exhausted his or her entitlement to, unemployment compensation and who is unlikely to have an opportunity to return to his or her previous industry or occupation, making a change in occupation necessary for reemployment in the labor market area.

Section 1070. Section 446.52, Florida Statutes (1996 Supplement), as amended by section 91 of chapter 95-418, Laws of Florida, and section 297 of chapter 96-406, Laws of Florida, is amended to read:

446.52 Confidentiality of information.—Information about displaced homemakers who receive services under ss. 446.50 and 446.51 which is received through files, reports, inspections, or otherwise, by the Department of Education or by authorized departmental employees, by persons who volunteer services, or by persons who provide services to displaced homemakers under ss. 446.50 and 446.51 through contracts with the department is confidential and exempt from the provisions of s. 119.07(1). Such information may not be disclosed publicly in such a manner as to identify a displaced homemaker, unless such person or the person's ~~her~~ legal guardian provides written consent.

Section 1071. Section 446.52, Florida Statutes (1996 Supplement), as amended by section 8 of chapter 95-394, Laws of Florida, and section 296 of chapter 96-406, Laws of Florida, is amended to read:

446.52 Confidentiality of information.—Information about displaced homemakers who receive services under ss. 410.30 and 410.301 which is received through files, reports, inspections, or otherwise, by the division or by authorized employees of the division, by persons who volunteer services, or by persons who provide services to displaced homemakers under ss. 410.30 and 410.301 through contracts with the division is confidential and exempt from the provisions of s. 119.07(1). Such information may not be disclosed publicly in such a manner as to identify a displaced homemaker, unless such person or the person's ~~her~~ legal guardian provides written consent.

Section 1072. Subsection (1) of section 446.602, Florida Statutes (1996 Supplement), is amended to read:

446.602 Regional Workforce Development Boards.—

(1) One Regional Workforce Development Board shall be appointed in each designated service delivery area. The membership and responsibilities of the board shall be consistent with Pub. L. No. 97-300, as amended. The board shall be appointed by the chief elected official or his or her designee of the local county or city governing bodies or consortiums of county and/or city governmental units that exist through interlocal agreements and shall include:

(a) At least 51 percent of the members of each board being from the private sector and being chief executives, chief operating officers, owners of business concerns, or other private sector executives with substantial management or policy responsibility.

(b) Representatives of organized labor and community-based organizations, who shall constitute not less than 15 percent of the board members.

(c) Representatives of educational agencies, including presidents of local community colleges, superintendents of local school districts, licensed private postsecondary educational institutions participating in vocational education and job training in the state and conducting programs on the Occupational Forecasting Conference list or a list validated by the Regional Workforce Development Board; vocational rehabilitation agencies; economic development agencies; public assistance agencies; and public employment service. One of the representatives from licensed private postsecondary educational institutions shall be from a degree-granting institution, and one from an institution offering certificate or diploma programs. One of these members shall be a nonprofit, community-based organization which provides direct job training and placement services to hard-to-serve individuals including the target population of people with disabilities.

The current Private Industry Council may be restructured, by local agreement, to meet the criteria for a Regional Workforce Development Board.

The Regional Workforce Development Board shall designate all local service providers and shall not transfer this authority to a third party. In order to exercise independent oversight, the Regional Workforce Development Board shall not be a direct provider of intake, assessment, eligibility determinations, or other direct provider services.

Section 1073. Subsections (1), (2), and (5) of section 447.205, Florida Statutes (1996 Supplement), are amended to read:

447.205 Public Employees Relations Commission.—

(1) There is hereby created within the Department of Labor and Employment Security the Public Employees Relations Commission, hereinafter referred to as the "commission." The commission shall be composed of a chair chairman and two full-time members to be appointed by the Governor, subject to confirmation by the Senate, from persons representative of the public and known for their objective and independent judgment, who shall not be employed by, or hold any commission with, any governmental unit in the state or any employee organization, as defined in this part, while in such

office. In no event shall more than one appointee be a person who, on account of previous vocation, employment, or affiliation, is, or has been, classified as a representative of employers; and in no event shall more than one such appointee be a person who, on account of previous vocation, employment, or affiliation, is, or has been, classified as a representative of employees or employee organizations. The commissioners shall devote full time to commission duties and shall not engage in any other business, vocation, or employment while in such office. Beginning January 1, 1980, the chair chairman shall be appointed for a term of 4 years, one commissioner for a term of 1 year, and one commissioner for a term of 2 years. Thereafter, every term of office shall be for 4 years; and each term of the office of chair chairman shall commence on January 1 of the second year following each regularly scheduled general election at which a Governor is elected to a full term of office. In the event of a vacancy prior to the expiration of a term of office, an appointment shall be made for the unexpired term of that office. The chair chairman shall be responsible for the administrative functions of the commission and shall have the authority to employ such personnel as may be necessary to carry out the provisions of this part. Once appointed to the office of chair chairman, the chair chairman shall serve as chair chairman for the duration of the term of office of chair chairman. Nothing contained herein prohibits a chair chairman or commissioner from serving multiple terms.

(2) The chair chairman and the other commissioners shall be paid annual salaries to be fixed by law. Such salaries shall be paid in equal monthly installments. All commissioners shall be reimbursed for expenses, as provided in s. 112.061.

(5) The commission shall make such expenditures, including expenditures for personal services and rent at the seat of government and elsewhere, for law books, books of reference, periodicals, furniture, equipment, and supplies, and for printing and binding, as may be necessary in exercising its authority and powers and carrying out its duties and responsibilities. All such expenditures of the commission shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the chair chairman.

Section 1074. Subsection (3) and paragraph (a) of subsection (6) of section 447.503, Florida Statutes (1996 Supplement), are amended to read:

447.503 Charges of unfair labor practices.—It is the intent of the Legislature that the commission act as expeditiously as possible to settle disputes regarding alleged unfair labor practices. To this end, violations of the provisions of s. 447.501 shall be remedied by the commission in accordance with the following procedures and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with the provisions of this section, the procedures contained in this section shall govern:

(3) Whenever a charging party alleges that a respondent has engaged in unfair labor practices and that the charging party will suffer substantial and irreparable injury if he is not granted temporary relief, the commission may petition the circuit court for appropriate injunctive relief pending the final adjudication by the commission with respect to such matter. Upon the filing

of any such petition, the court shall cause notice thereof to be served upon the parties and, thereupon, shall have jurisdiction to grant such temporary relief or restraining order as it deems just and proper.

(6)(a) If, upon consideration of the record in the case, the commission finds that an unfair labor practice has been committed, it shall issue and cause to be served an order requiring the appropriate party or parties to cease and desist from the unfair labor practice and take such positive action, including reinstatement of employees with or without back pay, as will best implement the general policies expressed in this part. However, no order of the commission shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment to ~~him~~ of any back pay, if the individual was suspended or discharged for cause. The order may further require the party or parties to make periodic reports showing the extent to which it has complied with the order. If, upon consideration of the record in the case, the commission finds that an unfair labor practice has not been or is not being committed, it shall issue an order dismissing the case.

Section 1075. Subsections (1) and (2) of section 447.605, Florida Statutes (1996 Supplement), are amended to read:

447.605 Public meetings and records law; exemptions and compliance.—

(1) All discussions between the chief executive officer of the public employer, or his or her representative, and the legislative body or the public employer relative to collective bargaining shall be closed and exempt from the provisions of s. 286.011.

(2) The collective bargaining negotiations between a chief executive officer, or his or her representative, and a bargaining agent shall be in compliance with the provisions of s. 286.011.

Section 1076. Paragraph (g) of subsection (1) of section 450.061, Florida Statutes (1996 Supplement), is amended to read:

450.061 Hazardous occupations prohibited; exemptions.—

(1) No minor 15 years of age or younger, whether or not such person's disabilities of nonage have been removed by marriage or otherwise, shall be employed or permitted or suffered to work in any of the following occupations:

(g) In the operation of a motor vehicle, except a motorscooter which he or she is licensed to operate, except that 14-year-old and 15-year-old workers may drive farm tractors in the course of their farmwork under the close supervision of their parents on a family-operated farm, and except that qualified 14-year-old and 15-year-old workers may drive tractors in the course of their farmwork under the close supervision of the farm operator. "Qualified," as used herein, means having completed a training course in tractor operation sponsored by a recognized agricultural or vocational agency, as evidenced by duly executed certificate, such certificate to be filed with the farm operator for the duration of the employment.

Section 1077. Subsections (1), (3), (5), (7), (8), and (9) and paragraph (c) of subsection (10) of section 450.33, Florida Statutes (1996 Supplement), are amended to read:

450.33 Duties of farm labor contractor.—Every farm labor contractor must:

(1) Carry his or her certificate of registration with him or her at all times and exhibit it to all persons with whom the farm labor contractor ~~he~~ intends to deal in his or her capacity as a farm labor contractor prior to so dealing and, upon request, to persons designated by the division.

(3) Comply ~~on his part~~ with the terms and provisions of all legal and valid agreements and contracts entered into between the registrant in his or her capacity as a farm labor contractor and third person.

(5) Take out a policy of insurance with any insurance carrier which policy insures such registrant against liability for damage to persons or property arising out of the operation or ownership of any vehicle or vehicles for the transportation of individuals in connection with his or her business, activities, or operations as a farm labor contractor. In no event may the amount of such liability insurance be less than that required by the provisions of the financial responsibility law of this state.

(7) Semimonthly or at the time of each payment of wages furnish each of the workers employed by him or her, either as a detachable part of the check, draft, or voucher paying the employee's wages or separately, an itemized statement in writing showing in detail each and every deduction made from such wages.

(8) File, within such time as the division may prescribe, a set of his or her fingerprints.

(9) Produce evidence to the division that each vehicle he or she uses for the transportation of employees complies with the requirements and specifications established in chapter 316, s. 316.620, or Pub. L. No. 93-518 as amended by Pub. L. No. 97-470 meeting Department of Transportation requirements or, in lieu thereof, bears a valid inspection sticker showing that the vehicle has passed the inspection in the state in which the vehicle is registered.

(10) Comply with all applicable statutes, rules, and regulations of the United States and of the State of Florida for the protection or benefit of labor, including, but not limited to, those providing for wages, hours, fair labor standards, social security, workers' compensation, unemployment compensation, child labor, and transportation. The division shall not suspend or revoke a certificate of registration pursuant to this subsection unless:

(c) The holder of a certificate of registration stipulates that a violation has occurred or defaults in the administrative proceedings brought to suspend or revoke his or her registration.

Section 1078. Subsection (4) of section 455.213, Florida Statutes (1996 Supplement), is amended to read:

455.213 General licensing provisions.—

(4) When any administrative law judge conducts a hearing pursuant to the provisions of chapter 120 with respect to the issuance of a license by the department, the administrative law judge shall submit his or her recommended order to the appropriate board, which shall thereupon issue a final order. The applicant for a license may appeal the final order of the board in accordance with the provisions of chapter 120.

Section 1079. Subsection (3) of section 455.2141, Florida Statutes (1996 Supplement), is amended to read:

455.2141 Agency for Health Care Administration; general licensing provisions.—

(3) When any administrative law judge conducts a hearing pursuant to the provisions of chapter 120 with respect to the issuance of a license by the Agency for Health Care Administration, the administrative law judge shall submit his or her recommended order to the appropriate board, which shall thereupon issue a final order. The applicant for licensure may appeal the final order of the board in accordance with the provisions of chapter 120.

Section 1080. Subsection (2) of section 455.217, Florida Statutes (1996 Supplement), is amended to read:

455.217 Examinations.—

(2) The board or, when there is no board, the department shall make rules providing for reexamination of any applicants who have failed the examination. If both a written and a practical examination are given, an applicant shall be required to retake only the portion of the examination on which he or she failed to achieve a passing grade, if the applicant ~~he~~ successfully passes that portion within a reasonable time of his or her passing the other portion. The board or, when there is no board, the department shall make available an examination review procedure for applicants and charge an examination review fee not to exceed \$75 per review. Unless prohibited or limited by rules implementing security or access guidelines of national examinations, the applicant is entitled to review his or her examination questions, answers, papers, grades, and grading key. An applicant may waive in writing the confidentiality of his or her examination grades.

Section 1081. Subsection (2) of section 455.2173, Florida Statutes (1996 Supplement), is amended to read:

455.2173 Agency for Health Care Administration; examinations.—

(2) The board or, when there is no board, the Agency for Health Care Administration shall adopt rules providing for reexamination of any applicants who have failed the examination. If both a written and a practical examination are given, an applicant shall be required to retake only the

portion of the examination on which he or she failed to achieve a passing grade, if the applicant ~~he~~ successfully passes that portion within a reasonable time of his or her passing the other portion. The board or, when there is no board, the agency shall make available an examination review procedure for applicants and charge an examination review fee not to exceed \$75 per review. Unless prohibited or limited by rules implementing security or access guidelines of national examinations, the applicant is entitled to review his or her examination questions, answers, papers, grades, and grading key. An applicant may waive in writing the confidentiality of his or her examination grades.

Section 1082. Subsections (1), (4), (8), and (10) of section 455.225, Florida Statutes (1996 Supplement), are amended to read:

455.225 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department or the Agency for Health Care Administration, as appropriate.

(1) The department or the Agency for Health Care Administration, for the boards under their respective jurisdictions, shall cause to be investigated any complaint that is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint is legally sufficient if it contains ultimate facts that show that a violation of this chapter, of any of the practice acts relating to the professions regulated by the department or the agency, or of any rule adopted by the department, the agency, or a regulatory board in the department or the agency has occurred. In order to determine legal sufficiency, the department or the agency may require supporting information or documentation. The department or the agency may investigate, and the department, the agency, or the appropriate board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates a desire not to cause the complaint to be investigated or prosecuted to completion. The department or the agency may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department or the agency has reason to believe, after preliminary inquiry, that the alleged violations in the complaint are true. The department or the agency may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department or the agency has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The department or the agency may initiate an investigation if it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, a rule of the agency, or a rule of a board. Except as provided in ss. 458.331(9), 459.015(9), 460.413(5), and 461.013(6), when an investigation of any subject is undertaken, the department or the agency shall promptly furnish to the subject or the subject's attorney a copy of the complaint or document that resulted in the initiation of the investigation. The subject may submit a written response to the information contained in such complaint or document within 20 days after service to the subject of the complaint or document. The subject's written response shall be considered by the probable

cause panel. The right to respond does not prohibit the issuance of a summary emergency order if necessary to protect the public. However, if the secretary, or the secretary's designee, and the chair ~~chairman~~ of the respective board or the chair ~~chairman~~ of its probable cause panel agree in writing that such notification would be detrimental to the investigation, the department or the agency may withhold notification. The department or the agency may conduct an investigation without notification to any subject if the act under investigation is a criminal offense.

(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department or the Agency for Health Care Administration, as appropriate. Each regulatory board shall provide by rule that the determination of probable cause shall be made by a panel of its members or by the department or the agency. Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board may provide by rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board's former or present consumer members, if one is available, willing to serve, and is authorized to do so by the board chair ~~chairman~~. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profession. All proceedings of the panel are exempt from s. 286.011 until 10 days after probable cause has been found to exist by the panel or until the subject of the investigation waives his or her privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department or the agency shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department or the agency. The probable cause panel or the department or the agency, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department or the agency. The secretary may grant extensions of the 15-day and the 30-day time limits. If the probable cause panel does not find probable cause within the 30-day time limit, as may be extended, or if the probable cause panel finds no probable cause, the department or the agency may determine, within 10 days after the panel fails to determine probable cause or 10 days after the time limit has elapsed, that probable cause exists. In lieu of a finding of probable cause, the probable cause panel, or the department or the agency when there is no board, may issue a letter of guidance to the subject. If the probable cause panel finds that probable cause exists, it shall direct the department or the agency to file a formal complaint against the licensee. The department or the agency shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department or the agency shall file a formal complaint against the subject of the investigation and prosecute that complaint pursuant to chapter 120. However, the department or the agency may decide

not to prosecute the complaint if it finds that probable cause had been improvidently found by the panel. In such cases, the department or the agency shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to chapter 120. The department or the agency shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department or the agency within 1 year after the filing of a complaint. A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from the Health Care Trust Fund or the Professional Regulation Trust Fund, as appropriate. All proceedings of the probable cause panel are exempt from s. 120.525.

(8) Any proceeding for the purpose of summary suspension of a license, or for the restriction of the license, of a licensee pursuant to s. 120.60(6) shall be conducted by the Secretary of Business and Professional Regulation or his or her designee or the Director of Health Care Administration or his or her designee, as appropriate, who shall issue the final summary order.

(10) The complaint and all information obtained pursuant to the investigation by the department or the Agency for Health Care Administration are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department or the agency, or until the regulated professional or subject of the investigation waives his or her privilege of confidentiality, whichever occurs first. Upon completion of the investigation and pursuant to a written request by the subject, the department or the agency shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 455.241, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation, if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 455.241. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days, unless an extension of time has been granted by the department or the agency. This subsection does not prohibit the department or the Agency for Health Care Administration from providing such information to any law enforcement agency or to any other regulatory agency.

Section 1083. Paragraph (j) of subsection (4) of section 455.236, Florida Statutes (1996 Supplement), is amended to read:

455.236 Financial arrangements between referring health care providers and providers of health care services.—

(4) PROHIBITED REFERRALS AND CLAIMS FOR PAYMENT.—Except as provided in this section:

(j) A health care provider who meets the requirements of paragraphs (b) and (i) must disclose his or her investment interest to his or her patients as provided in s. 455.25.

Section 1084. Subsection (2) of section 455.241, Florida Statutes (1996 Supplement), is amended to read:

455.241 Patient records; report or copies of records to be furnished.—

(2) Except as otherwise provided in s. 440.13(2), such records may not be furnished to, and the medical condition of a patient may not be discussed with, any person other than the patient or the patient's legal representative or other health care providers involved in the care or treatment of the patient, except upon written authorization of the patient. However, such records may be furnished without written authorization to any person, firm, or corporation that has procured or furnished such examination or treatment with the patient's consent or when compulsory physical examination is made pursuant to Rule 1.360, Florida Rules of Civil Procedure, in which case copies of the medical records shall be furnished to both the defendant and the plaintiff. Such records may be furnished in any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient or the patient's legal representative by the party seeking such records. Except in a medical negligence action when a health care provider is or reasonably expects to be named as a defendant, information disclosed to a health care practitioner by a patient in the course of the care and treatment of such patient is confidential and may be disclosed only to other health care providers involved in the care or treatment of the patient, or if permitted by written authorization from the patient or compelled by subpoena at a deposition, evidentiary hearing, or trial for which proper notice has been given. The department or the Agency for Health Care Administration, as appropriate, may obtain patient records pursuant to a subpoena without written authorization from the patient if the department or the Agency for Health Care Administration and the probable cause panel of the appropriate board, if any, find reasonable cause to believe that a practitioner has excessively or inappropriately prescribed any controlled substance specified in chapter 893 in violation of this chapter or any professional practice act or that a practitioner has practiced his or her profession below that level of care, skill, and treatment required as defined by this chapter or any professional practice act; provided, however, the patient record obtained by the department or the agency pursuant to this subsection shall be used solely for the purpose of the department or the agency and the appropriate regulatory board in disciplinary proceedings. The record shall otherwise be confidential and exempt from s. 119.07(1). This section does not limit the assertion of the psychotherapist-patient privilege under s. 90.503 in regard to records of treatment for mental or nervous disorders by a medical practitioner licensed pursuant to chapter 458 or chapter 459 who has primarily diagnosed and treated mental and nervous disorders for a period of not less than 3 years, inclusive of psychiatric residency. However, the practitioner shall release records of treatment for medical conditions even if the practitioner has also treated the patient for mental or nervous disorders. If the department or the agency has found reasonable cause under this section and the psychotherapist-patient privilege is asserted, the department or the agency may petition the circuit court for an in camera review of the records by expert medical practitioners appointed by the court to determine if the records or any part thereof are protected under the psychotherapist-patient privilege.

Section 1085. Paragraph (a) of subsection (3) of section 455.261, Florida Statutes (1996 Supplement), is amended to read:

455.261 Treatment programs for impaired practitioners.—

(3)(a) Whenever the department receives a written or oral legally sufficient complaint alleging that a licensee under the jurisdiction of the Division of Medical Quality Assurance within the department is impaired as a result of the misuse or abuse of alcohol or drugs, or both, or due to a mental or physical condition which could affect the licensee's ability to practice with skill and safety, and no complaint against the licensee other than impairment exists, the reporting of such information shall not constitute a complaint within the meaning of s. 455.225 if the probable cause panel of the appropriate board, or the department when there is no board, finds:

1. The licensee has acknowledged the impairment problem.
2. The licensee has voluntarily enrolled in an appropriate, approved treatment program.
3. The licensee has voluntarily withdrawn from practice or limited the scope of practice as determined by the panel, or the department when there is no board, in each case, until such time as the panel, or the department when there is no board, is satisfied the licensee has successfully completed an approved treatment program.
4. The licensee has executed releases for medical records, authorizing the release of all records of evaluations, diagnoses, and treatment of the licensee, including records of treatment for emotional or mental conditions, to the consultant. The consultant shall make no copies or reports of records that do not regard the issue of the licensee's impairment and his or her participation in a treatment program.

Section 1086. Paragraph (f) of subsection (1), subsections (2), (3), and (4), and paragraph (a) of subsection (9) of section 458.311, Florida Statutes (1996 Supplement), are amended to read:

458.311 Licensure by examination; requirements; fees.—

(1) Any person desiring to be licensed as a physician shall apply to the department to take the licensure examination. The department shall examine each applicant whom the board certifies:

(f) Meets one of the following medical education and postgraduate training requirements:

1.a. Is a graduate of an allopathic medical school or allopathic college recognized and approved by an accrediting agency recognized by the United States Office of Education;

b. If the language of instruction of the medical school is other than English, has demonstrated competency in English through presentation of a satisfactory grade on the Test of Spoken English of the Educational Testing Service or a similar test approved by rule of the board; and

c. Has completed an approved residency of at least 1 year.

2.a. Is a graduate of a foreign medical school registered with the World Health Organization and certified pursuant to s. 458.314 as having met the standards required to accredit medical schools in the United States or reasonably comparable standards;

b. If the language of instruction of the foreign medical school is other than English, has demonstrated competency in English through presentation of the Educational Commission on Foreign Medical Graduates English proficiency certificate or by a satisfactory grade on the Test of Spoken English of the Educational Testing Service or a similar test approved by rule of the board; and

c. Has completed an approved residency of at least 1 year.

3.a. Is a graduate of a foreign medical school which has not been certified pursuant to s. 458.314;

b. Has had his or her medical credentials evaluated by the Education Commission on Foreign Medical Graduates, holds an active, valid certificate issued by that commission, and has passed the examination utilized by that commission; and

c. Has completed an approved residency of at least 1 year; however, after October 1, 1992, the applicant shall have completed an approved residency of at least 3 years in one specialty area.

(2) Every applicant who is otherwise qualified may take the licensing examination five times after October 1, 1986, notwithstanding the number of times the examination has been previously failed. If an applicant fails the examination taken after October 1, 1986, five times, the applicant ~~he~~ shall no longer be eligible for licensure.

(3) Notwithstanding the provisions of subparagraph (1)(f)3., a graduate of a foreign medical school need not present the certificate issued by the Educational Commission for Foreign Medical Graduates or pass the examination utilized by that commission if the graduate ~~he~~:

(a) Has received a bachelor's degree from an accredited United States college or university.

(b) Has studied at a medical school which is recognized by the World Health Organization.

(c) Has completed all of the formal requirements of the foreign medical school, except the internship or social service requirements, and has passed part I of the National Board of Medical Examiners examination or the Educational Commission for Foreign Medical Graduates examination equivalent.

(d) Has completed an academic year of supervised clinical training in a hospital affiliated with a medical school approved by the Council on Medical Education of the American Medical Association and upon completion has

passed part II of the National Board of Medical Examiners examination or the Educational Commission for Foreign Medical Graduates examination equivalent.

(4) The department and the board shall assure that applicants for licensure meet the criteria in subsection (1) through an investigative process. When the investigative process is not completed within the time set out in s. 120.60(1) and the department or board has reason to believe that the applicant does not meet the criteria, the secretary or the secretary's ~~his~~ designee may issue a 90-day licensure delay which shall be in writing and sufficient to notify the applicant of the reason for the delay. The provisions of this subsection shall control over any conflicting provisions of s. 120.60(1).

(9)(a) Notwithstanding any of the provisions of this section, an applicant who, at the time of his or her medical education, was a citizen of the country of Nicaragua and, at the time of application for licensure under this subsection, is either a citizen of the country of Nicaragua or a citizen of the United States may make initial application to the department on or before July 1, 1992, for licensure subject to this subsection and may reapply pursuant to board rule. Upon receipt of such application, the department shall issue a 2-year restricted license to any applicant therefor upon the applicant's successful completion of the licensure examination as described in paragraph (1)(a) and who the board certifies has met the following requirements:

1. Is a graduate of a World Health Organization recognized foreign medical institution located in a country in the Western Hemisphere.

2. Received a medical education which has been determined by the board to be substantially similar, at the time of the applicant's graduation, to approved United States medical programs.

3. Practiced medicine in the country of Nicaragua for a period of 1 year prior to residing in the United States and has lawful employment authority in the United States.

4. Has had his or her medical education verified by the Florida Board of Medicine.

5. Successfully completed the Educational Commission for Foreign Medical Graduates Examination or Foreign Medical Graduate Examination in the Medical Sciences or successfully completed a course developed for the University of Miami for physician training equivalent to the course developed for such purposes pursuant to chapter 74-105, Laws of Florida. No person shall be permitted to enroll in the physician training course until he or she has been certified by the board as having met the requirements of this paragraph or conditionally certified by the board as having substantially complied with the requirements of this paragraph. Any person conditionally certified by the board shall be required to establish, to the board's satisfaction, full compliance with all the requirements of this paragraph prior to completion of the physician training course and shall not be permitted to sit for the licensure examination unless the board certifies that all of the requirements of this paragraph have been met.

However, applicants eligible for licensure under s. 455.218 or subsection (9), 1988 Supplement to the Florida Statutes 1987, as amended by s. 18, chapter 89-162, Laws of Florida, and ss. 5 and 42, chapter 89-374, Laws of Florida, and renumbered as subsection (8) by s. 5, chapter 89-374, Laws of Florida, shall not be eligible to apply under this subsection.

Section 1087. Subsections (1), (3), and (4) of section 458.313, Florida Statutes (1996 Supplement), are amended to read:

458.313 Licensure by endorsement; requirements; fees.—

(1) The department shall issue a license by endorsement to any applicant who, upon applying to the department and remitting a fee not to exceed \$500 set by the board, demonstrates to the board that he or she:

(a) Has met the qualifications for licensure in s. 458.311(1)(b)-(f);

(b) Has obtained a passing score, as established by rule of the board, on the licensure examination of the Federation of State Medical Boards of the United States, Inc. (FLEX), the United States Medical Licensing Examination (USMLE), or the examination of the National Board of Medical Examiners, or on a combination thereof, provided that said examination or combination of examinations required shall have been so taken within the 10 years immediately preceding the filing of his or her application for licensure under this section; and

(c) Shows evidence of the active licensed practice of medicine in another jurisdiction, for at least 2 of the immediately preceding 4 years, or completion of board-approved postgraduate training within the year preceding the filing of an application for licensure.

(3) The department and the board shall assure that applicants for licensure by endorsement meet applicable criteria in this chapter through an investigative process. When the investigative process is not completed within the time set out in s. 120.60(1) and the department or board has reason to believe that the applicant does not meet the criteria, the secretary or the secretary's ~~his~~ designee may issue a 90-day licensure delay which shall be in writing and sufficient to notify the applicant of the reason for the delay. The provisions of this subsection shall control over any conflicting provisions of s. 120.60(1).

(4) If the applicant has not actively practiced medicine or been on the active teaching faculty of an accredited medical school within the previous 4 years, the board shall certify the applicant to the department for licensure by endorsement subject to the condition that the applicant work under the supervision of another physician for a period, not to exceed 1 year, as determined by the board based on its determination of the licensee's ability to practice medicine. The supervising physician shall have had no probable cause findings against him or her within the previous 3 years.

Section 1088. Subsection (2) of section 458.3145, Florida Statutes (1996 Supplement), is amended to read:

458.3145 Medical faculty certificate.—

(2) The certificate authorizes the holder to practice only in conjunction with his or her faculty position at an accredited medical school and its affiliated clinical facilities or teaching hospitals that are registered with the Board of Medicine as sites at which holders of medical faculty certificates will be practicing. Such certificate automatically expires when the holder's relationship with the medical school is terminated or after a period of 24 months, whichever occurs sooner, and is renewable every 2 years by a holder who applies to the board on a form prescribed by the board and provides certification by the dean of the medical school that the holder is a distinguished medical scholar and an outstanding practicing physician.

Section 1089. Paragraph (a) of subsection (4), paragraphs (d), (e), and (g) of subsection (5), and subsection (7) of section 458.320, Florida Statutes (1996 Supplement), are amended to read:

458.320 Financial responsibility.—

(4)(a) Each insurer, self-insurer, risk retention group, or Joint Underwriting Association shall promptly notify the department of cancellation or nonrenewal of insurance required by this section. Unless the physician demonstrates that he or she is otherwise in compliance with the requirements of this section, the department shall suspend the license of the physician pursuant to ss. 120.569 and 120.57 and notify all health care facilities licensed under chapter 395 of such action. Any suspension under this subsection shall remain in effect until the physician demonstrates compliance with the requirements of this section, except that a license suspended under paragraph (5)(g) shall not be reinstated until the physician demonstrates compliance with the requirements of that provision.

(5) The requirements of subsections (1), (2), and (3) shall not apply to:

(d) Any person licensed or certified under this chapter who practices only in conjunction with his or her teaching duties at an accredited medical school or in its main teaching hospitals. Such person may engage in the practice of medicine to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the medical school.

(e) Any person holding an active license under this chapter who is not practicing medicine in this state. If such person initiates or resumes any practice of medicine in this state, he or she must notify the department of such activity.

(g) Any person holding an active license under this chapter who agrees to meet all of the following criteria:

1. Upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the judgment creditor the lesser of the entire

amount of the judgment with all accrued interest or either \$100,000, if the physician is licensed pursuant to this chapter but does not maintain hospital staff privileges, or \$250,000, if the physician is licensed pursuant to this chapter and maintains hospital staff privileges, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. Such adverse final judgment shall include any cross-claim, counterclaim, or claim for indemnity or contribution arising from the claim of medical malpractice. Upon notification of the existence of an unsatisfied judgment or payment pursuant to this subparagraph, the department shall notify the licensee by certified mail that he or she shall be subject to disciplinary action unless, within 30 days from the date of mailing, he or she either:

a. Shows proof that the unsatisfied judgment has been paid in the amount specified in this subparagraph; or

b. Furnishes the department with a copy of a timely filed notice of appeal and either:

(I) A copy of a supersedeas bond properly posted in the amount required by law; or

(II) An order from a court of competent jurisdiction staying execution on the final judgment pending disposition of the appeal.

2. Upon the next meeting of the probable cause panel of the board following 30 days after the date of mailing the notice of disciplinary action to the licensee, the panel shall make a determination of whether probable cause exists to take disciplinary action against the licensee pursuant to subparagraph 1.

3. If the board determines that the factual requirements of subparagraph 1. are met, it shall take disciplinary action as it deems appropriate against the licensee. Such disciplinary action shall include, at a minimum, probation of the license with the restriction that the licensee must make payments to the judgment creditor on a schedule determined by the board to be reasonable and within the financial capability of the physician. Notwithstanding any other disciplinary penalty imposed, the disciplinary penalty may include suspension of the license for a period not to exceed 5 years. In the event that an agreement to satisfy a judgment has been met, the board shall remove any restriction on the license.

4. The licensee has completed a form supplying necessary information as required by the department.

A licensee who meets the requirements of this paragraph shall be required to either post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malprac-

tice. YOUR DOCTOR HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This is permitted under Florida law subject to certain conditions. Florida law imposes penalties against noninsured physicians who fail to satisfy adverse judgments arising from claims of medical malpractice. This notice is provided pursuant to Florida law.

(7) Any licensee who relies on any exemption from the financial responsibility requirement shall notify the department, in writing, of any change of circumstance regarding his or her qualifications for such exemption and shall demonstrate that he or she is in compliance with the requirements of this section.

Section 1090. Paragraphs (j), (p), (q), (r), (s), (v), and (y) of subsection (1) and subsections (4) and (9) of section 458.331, Florida Statutes (1996 Supplement), are amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

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

(j) Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician.

(p) Performing professional services which have not been duly authorized by the patient or client, or his or her legal representative, except as provided in s. 743.064, s. 766.103, or s. 768.13.

(q) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent.

(r) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the physician to himself or herself, except one prescribed, dispensed, or administered to the physician by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

(s) Being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the secretary or the secretary's ~~his~~ designee that probable cause exists to believe that the licensee is unable to practice medicine because of the reasons stated in this paragraph, the authority to issue an order to

compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed may not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of medicine with reasonable skill and safety to patients.

(v) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

(y) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(4) The board shall not reinstate the license of a physician, or cause a license to be issued to a person it deems or has deemed unqualified, until such time as it is satisfied that he or she has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of medicine.

(9) When an investigation of a physician is undertaken, the department shall promptly furnish to the physician or the physician's ~~his~~ attorney a copy of the complaint or document which resulted in the initiation of the investigation. For purposes of this subsection, such documents include, but are not limited to: the pertinent portions of an annual report submitted to the department pursuant to s. 395.0197(5)(b); a report of an adverse or untoward incident which is provided to the department pursuant to the provisions of s. 395.0197(6); a report of peer review disciplinary action submitted to the department pursuant to the provisions of s. 395.0193(4) or s. 458.337, providing that the investigations, proceedings, and records relating to such peer review disciplinary action shall continue to retain their privileged status even as to the licensee who is the subject of the investigation, as provided by ss. 395.0193(7) and 458.337(3); a report of a closed claim submitted pursuant to s. 627.912; a presuit notice submitted pursuant to s. 766.106(2); and a petition brought under the Florida Birth-Related Neurological Injury Compensation Plan, pursuant to s. 766.305(2). The physician may submit a written response to the information contained in the complaint or document which resulted in the initiation of the investigation within 45 days after service to the physician of the complaint or document. The physician's written response shall be considered by the probable cause panel.

Section 1091. Paragraph (a) of subsection (1) of section 458.337, Florida Statutes (1996 Supplement), is amended to read:

458.337 Reports of disciplinary actions by medical organizations and hospitals.—

(1)(a) The department shall be notified when any physician:

1. Has been removed or suspended or has had any other disciplinary action taken by his or her peers within any professional medical association, society, body, or professional standards review organization established pursuant to Pub. L. No. 92-603, s. 249F, or similarly constituted professional organization, whether or not such association, society, body, or organization is local, regional, state, national, or international in scope; or

2. Has been disciplined by a licensed hospital, health maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home or the medical staff of such a hospital, health maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home, including allowing the physician to resign, for any act that constitutes a violation of this chapter. If a physician resigns or withdraws from privileges when such facility notifies the physician that it is conducting an investigation or inquiry regarding an act which is potentially a violation of this chapter, the facility shall complete its investigation or inquiry and shall notify the department of the physician's resignation or withdrawal from privileges if the completed investigation or inquiry results in a finding that such act constitutes a violation of this chapter for which the facility would have disciplined the physician or allowed the physician ~~him~~ to resign or withdraw from privileges.

Section 1092. Section 458.339, Florida Statutes (1996 Supplement), is amended to read:

458.339 Physician's consent; handwriting samples; mental or physical examinations.—Every physician who accepts a license to practice medicine in this state shall, by so accepting the license or by making and filing a renewal of licensure to practice in this state, be deemed to have given his or her consent, during a lawful investigation of a complaint, to the following:

(1) To render a handwriting sample to an agent of the department and, further, to have waived any objections to its use as evidence against him or her.

(2) To waive the confidentiality and authorize the preparation and release of medical reports pertaining to the mental or physical condition of the physician ~~himself or herself~~ when the department has reason to believe that a violation of this chapter has occurred and when the department issues an order, based on the need for additional information, to produce such medical reports for the time period relevant to the complaint. As used in this section, "medical reports" means a compilation of medical treatment of the physician ~~himself or herself~~ which shall include symptoms, diagnosis, treatment prescribed, relevant history, and progress.

(3) To waive any objection to the admissibility of the reports as constituting privileged communications. Such material maintained by the department shall remain confidential and exempt from s. 119.07(1) until probable cause is found and an administrative complaint issued.

Section 1093. Section 458.341, Florida Statutes (1996 Supplement), is amended to read:

458.341 Search warrants for certain violations.—When the department has reason to believe that violations of s. 458.331(1)(q) or (r) have occurred or are occurring, its agents or other duly authorized persons may search a physician's place of practice at reasonable hours for purposes of securing such evidence as may be needed for prosecution. Such evidence shall not include any medical records of patients unless pursuant to the patients' written consent. Notwithstanding the consent of the patient, such records maintained by the department are confidential and exempt from s. 119.07(1). This section shall not limit the psychotherapist-patient privileges of s. 90.503. Prior to a search, the department shall secure a search warrant from any judge authorized by law to issue them. The search warrant shall be issued upon probable cause, supported by oath or affirmation particularly describing the things to be seized. The application for the warrant shall be sworn to and subscribed, and the judge may require further testimony from witnesses, supporting affidavits, or depositions in writing to support the application. The application and supporting information, if required, must set forth the facts tending to establish the grounds of the application or probable cause that they exist. If the judge is satisfied that probable cause exists, he or she shall issue a search warrant signed by him or her with the judge's ~~his~~ name of office to any agent or other person duly authorized by the department to execute process, commanding the agent or person to search the place described in the warrant for the property specified. The search warrant shall be served only by the agent or person mentioned in it and by no other person except an aide of the agent or person when such agent or person is present and acting in its execution.

Section 1094. Paragraph (b) of subsection (1), paragraph (e) of subsection (4), paragraph (f) of subsection (7), paragraph (a) of subsection (9), and subsection (11) of section 458.347, Florida Statutes (1996 Supplement), are amended to read:

458.347 Physician assistants.—

(1) LEGISLATIVE INTENT.—

(b) In order that maximum skills may be obtained within a minimum time period of education, a physician assistant shall be specialized to the extent that he or she can operate efficiently and effectively in the specialty areas in which he or she has been trained or is experienced.

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(e) A supervisory physician may delegate to a fully certified physician assistant the authority to prescribe any medication used in the supervisory physician's practice if such medication is listed on the formulary created pursuant to paragraph (f). A fully certified physician assistant may only prescribe such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that he or she is a physician assistant. Furthermore, the physician assistant must

inform the patient that the patient has the right to see the physician prior to any prescription being prescribed by the physician assistant.

2. The supervisory physician must notify the agency of his or her intent to delegate, on an agency-approved form, before delegating such authority and with each certification renewal application filed by the physician assistant.

3. The physician assistant must file with the agency, before commencing to prescribe, evidence that he or she has completed a continuing medical education course of at least 3 classroom hours in prescriptive practice, conducted by an accredited program approved by the boards, which course covers the limitations, responsibilities, and privileges involved in prescribing medicinal drugs, or evidence that he or she has received education comparable to the continuing education course as part of an accredited physician assistant training program.

4. The physician assistant must file with the agency, before commencing to prescribe, evidence that the physician assistant has a minimum of 3 months of clinical experience in the specialty area of the supervising physician.

5. The physician assistant must file with the agency a signed affidavit that he or she has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each certification renewal application.

6. The agency shall issue certification and a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the foregoing requirements.

7. The prescription must be written in a form that complies with chapter 499 and must contain, in addition to the supervisory physician's name, address, and telephone number, the physician assistant's prescriber number. The prescription must be filled in a pharmacy permitted under chapter 465 and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The appearance of the prescriber number creates a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

8. The physician assistant must note the prescription in the appropriate medical record, and the supervisory physician must review and sign each notation. For dispensing purposes only, the failure of the supervisory physician to comply with these requirements does not affect the validity of the prescription.

9. This paragraph does not prohibit a supervisory physician from delegating to a physician assistant the authority to order medication for a hospitalized patient of the supervisory physician.

This paragraph does not apply to facilities licensed pursuant to chapter 395.

(7) PHYSICIAN ASSISTANT CERTIFICATION.—

(f) Notwithstanding subparagraph (a)2., the agency may grant to a recent graduate of an approved program, as specified in subsection (6), temporary certification to expire upon receipt of scores of the proficiency examination administered by the National Commission on Certification of Physician Assistants. Between meetings of the council, the agency may grant temporary certification to practice based on the completion of all temporary certification requirements. All such administratively issued certifications shall be reviewed and acted on at the next regular meeting of the council. The recent graduate may be certified prior to employment, but must comply with paragraph (e). An applicant who has passed the proficiency examination may be granted permanent certification. An applicant failing the proficiency examination is no longer temporarily certified, but may reapply for a 1-year extension of temporary certification. An applicant may not be granted more than two temporary certificates and may not be certified as a physician assistant until he or she passes the examination administered by the National Commission on Certification of Physician Assistants. As prescribed by board rule, the council may require an applicant who does not pass the licensing examination after five or more attempts to complete additional remedial education or training. The council shall prescribe the additional requirements in a manner that permits the applicant to complete the requirements and be reexamined within 2 years after the date the applicant petitions the council to retake the examination a sixth or subsequent time.

(9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on Physician Assistants is created within the Agency for Health Care Administration.

(a) The council shall consist of five members appointed as follows:

1. The chairperson of the Board of Medicine shall appoint three members who are physicians and members of the Board of Medicine. One of the physicians must supervise a physician assistant in the physician's practice.

2. The chairperson of the Board of Osteopathic Medicine shall appoint one member who is a physician, supervises a physician assistant in the physician's practice, and is a member of the Board of Osteopathic Medicine.

3. The head of the agency or his or her designee shall appoint a fully certified physician assistant licensed under this chapter or chapter 459.

(11) PENALTY.—Any person who has not been certified by the council and approved by the agency and who holds himself or herself out as a physician assistant or who uses any other term in indicating or implying that he or she is a physician assistant commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.084 or by a fine not exceeding \$5,000.

Section 1095. Subsection (4) of section 459.0055, Florida Statutes (1996 Supplement), is amended to read:

459.0055 General licensure requirements.—

(4) The department and the board shall assure that applicants for licensure meet applicable criteria in this chapter through an investigative process. When the investigative process is not completed within the time set out in s. 120.60(1) and the department or board has reason to believe that the applicant does not meet the criteria, the secretary or the secretary's ~~his~~ designee may issue a 90-day licensure delay which shall be in writing and sufficient to notify the applicant of the reason for the delay. The provisions of this subsection shall control over any conflicting provisions of s. 120.60(1).

Section 1096. Paragraph (a) of subsection (4), paragraphs (d), (e), and (g) of subsection (5), and subsection (7) of section 459.0085, Florida Statutes (1996 Supplement), are amended to read:

459.0085 Financial responsibility.—

(4)(a) Each insurer, self-insurer, risk retention group, or joint underwriting association shall promptly notify the department of cancellation or non-renewal of insurance required by this section. Unless the osteopathic physician demonstrates that he or she is otherwise in compliance with the requirements of this section, the department shall suspend the license of the osteopathic physician pursuant to ss. 120.569 and 120.57 and notify all health care facilities licensed under chapter 395, part IV of chapter 394, or part I of chapter 641 of such action. Any suspension under this subsection shall remain in effect until the osteopathic physician demonstrates compliance with the requirements of this section except that a license suspended under paragraph (5)(g) shall not be reinstated until the osteopathic physician demonstrates compliance with the requirements of that provision.

(5) The requirements of subsections (1), (2), and (3) shall not apply to:

(d) Any person licensed or certified under this chapter who practices only in conjunction with his or her teaching duties at a college of osteopathic medicine. Such person may engage in the practice of osteopathic medicine to the extent that such practice is incidental to and a necessary part of duties in connection with the teaching position in the college of osteopathic medicine.

(e) Any person holding an active license under this chapter who is not practicing osteopathic medicine in this state. If such person initiates or resumes any practice of osteopathic medicine in this state, he or she must notify the department of such activity.

(g) Any person holding an active license under this chapter who agrees to meet all of the following criteria:

1. Upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the judgment creditor the lesser of the entire amount of the judgment with all accrued interest or either \$100,000, if the osteopathic physician is licensed pursuant to this chapter but does not maintain hospital staff privileges, or \$250,000, if the osteopathic physician is

licensed pursuant to this chapter and maintains hospital staff privileges, within 60 days after the date such judgment became final and subject to execution, unless otherwise mutually agreed to in writing by the parties. Such adverse final judgment shall include any cross-claim, counterclaim, or claim for indemnity or contribution arising from the claim of medical malpractice. Upon notification of the existence of an unsatisfied judgment or payment pursuant to this subparagraph, the department shall notify the licensee by certified mail that he or she shall be subject to disciplinary action unless, within 30 days from the date of mailing, the licensee ~~he~~ either:

a. Shows proof that the unsatisfied judgment has been paid in the amount specified in this subparagraph; or

b. Furnishes the department with a copy of a timely filed notice of appeal and either:

(I) A copy of a supersedeas bond properly posted in the amount required by law; or

(II) An order from a court of competent jurisdiction staying execution on the final judgment, pending disposition of the appeal.

2. Upon the next meeting of the probable cause panel of the board following 30 days after the date of mailing the notice of disciplinary action to the licensee, the panel shall make a determination of whether probable cause exists to take disciplinary action against the licensee pursuant to subparagraph 1.

3. If the board determines that the factual requirements of subparagraph 1. are met, it shall take disciplinary action as it deems appropriate against the licensee. Such disciplinary action shall include, at a minimum, probation of the license with the restriction that the licensee must make payments to the judgment creditor on a schedule determined by the board to be reasonable and within the financial capability of the osteopathic physician. Notwithstanding any other disciplinary penalty imposed, the disciplinary penalty may include suspension of the license for a period not to exceed 5 years. In the event that an agreement to satisfy a judgment has been met, the board shall remove any restriction on the license.

4. The licensee has completed a form supplying necessary information as required by the department.

A licensee who meets the requirements of this paragraph shall be required to either post notice in the form of a sign prominently displayed in the reception area and clearly noticeable by all patients or provide a written statement to any person to whom medical services are being provided. Such sign or statement shall state that: Under Florida law, osteopathic physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. YOUR OSTEOPATHIC PHYSICIAN HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This is permitted under Florida law subject to certain conditions. Florida law imposes strict penalties against noninsured osteopathic physicians who fail to satisfy adverse

judgments arising from claims of medical malpractice. This notice is provided pursuant to Florida law.

(7) Any licensee who relies on any exemption from the financial responsibility requirement shall notify the department in writing of any change of circumstance regarding his or her qualifications for such exemption and shall demonstrate that he or she is in compliance with the requirements of this section.

Section 1097. Paragraphs (s), (t), (u), (w), (z), and (cc) of subsection (1) and subsections (4) and (9) of section 459.015, Florida Statutes (1996 Supplement), are amended to read:

459.015 Grounds for disciplinary action by the board.—

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

(s) Performing professional services which have not been duly authorized by the patient or client or his or her legal representative except as provided in s. 743.064, s. 766.103, or s. 768.13.

(t) Prescribing, dispensing, administering, supplying, selling, giving, mixing, or otherwise preparing a legend drug, including all controlled substances, other than in the course of the osteopathic physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, supplying, selling, giving, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the osteopathic physician's professional practice, without regard to his or her intent.

(u) Prescribing or dispensing any medicinal drug appearing on any schedule set forth in chapter 893 by the osteopathic physician for himself or herself or administering any such drug by the osteopathic physician to himself or herself unless such drug is prescribed for the osteopathic physician by another practitioner authorized to prescribe medicinal drugs.

(w) Being unable to practice osteopathic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall, upon a finding of the secretary or ~~the secretary's~~ his designee that probable cause exists to believe that the licensee is unable to practice medicine because of the reasons stated in this paragraph, have the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A

licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of medicine with reasonable skill and safety to patients.

(z) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

(cc) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(4) The board shall not reinstate the license or certificate of an osteopathic physician, or cause a license or certificate to be issued to a person it has deemed unqualified, until such time as it is satisfied that he or she has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of osteopathic medicine.

(9) When an investigation of an osteopathic physician is undertaken, the department shall promptly furnish to the osteopathic physician or his or her attorney a copy of the complaint or document which resulted in the initiation of the investigation. For purposes of this subsection, such documents include, but are not limited to: the pertinent portions of an annual report submitted to the department pursuant to s. 395.0197(5)(b); a report of an adverse or untoward incident which is provided to the department pursuant to the provisions of s. 395.0197(6); a report of peer review disciplinary action submitted to the department pursuant to the provisions of s. 395.0193(4) or s. 459.016, provided that the investigations, proceedings, and records relating to such peer review disciplinary action shall continue to retain their privileged status even as to the licensee who is the subject of the investigation, as provided by ss. 395.0193(7) and 459.016(3); a report of a closed claim submitted pursuant to s. 627.912; a presuit notice submitted pursuant to s. 766.106(2); and a petition brought under the Florida Birth-Related Neurological Injury Compensation Plan, pursuant to s. 766.305(2). The osteopathic physician may submit a written response to the information contained in the complaint or document which resulted in the initiation of the investigation within 45 days after service to the osteopathic physician of the complaint or document. The osteopathic physician's written response shall be considered by the probable cause panel.

Section 1098. Subsection (1) of section 459.016, Florida Statutes (1996 Supplement), is amended to read:

459.016 Reports of disciplinary actions by medical organizations.—

(1) The department shall be notified when any osteopathic physician:

(a) Has been removed or suspended or has had any other disciplinary action taken by her or his peers within any professional medical association, society, body, or professional standards review organization established pursuant to Pub. L. No. 92-603, s. 249F, or similarly constituted professional

organization, whether or not such association, society, body, or organization is local, regional, state, national, or international in scope; or

(b) Has been disciplined, which shall include allowing an osteopathic physician to resign, by a licensed hospital or medical staff of said hospital for any act that constitutes a violation of this chapter. If a physician resigns or withdraws from privileges when such facility notifies the physician that it is conducting an investigation or inquiry regarding an act which is potentially a violation of this chapter, the facility shall complete its investigation or inquiry and shall notify the department of the physician's resignation or withdrawal from privileges if the completed investigation or inquiry results in a finding that such act constitutes a violation of this chapter for which the facility would have disciplined the physician or allowed her or him to resign or withdraw from privileges.

Within 20 days of receipt of such notification, upon board approval, the department shall notify all hospitals in the state of any disciplinary action which is severe enough for expulsion or resignation reported pursuant to this subsection, identifying the disciplined physician, the action taken, and the reason for such action.

Section 1099. Section 459.017, Florida Statutes (1996 Supplement), is amended to read:

459.017 Osteopathic physician's consent; handwriting samples; mental or physical examinations.—Every osteopathic physician who accepts a license or certificate to practice osteopathic medicine in this state shall, by so accepting the license or certificate or by making and filing a renewal of licensure or certification to practice in this state, be deemed to have given her or his consent during a lawful investigation of a complaint to the following:

(1) To render a handwriting sample to an agent of the department and, further, to have waived any objections to its use as evidence against her or him.

(2) To waive the confidentiality and authorize the preparation and release of all medical reports pertaining to the mental or physical condition of the osteopathic physician herself or himself when the department has reason to believe that a violation of this chapter has occurred and when the department issues an order, based on the need for additional information, to produce such medical reports for the time period relevant to the complaint. As used in this section, the term "medical reports" means a compilation of medical treatment of the osteopathic physician herself or himself, including symptoms, diagnosis, treatment prescribed, relevant history, and progress.

(3) To waive any objection to the admissibility of the medical reports as constituting privileged communications. Such material maintained by the department shall remain confidential and exempt from s. 119.07(1) until probable cause is found and an administrative complaint issued.

Section 1100. Section 459.018, Florida Statutes (1996 Supplement), is amended to read:

459.018 Search warrants for certain violations.—When the department has reason to believe that violations of s. 459.015(1)(u) or s. 459.015(1)(v) have occurred or are occurring, its agents or other duly authorized persons may search an osteopathic physician's place of practice for purposes of securing such evidence as may be needed for prosecution. Such evidence shall not include any medical records of patients unless pursuant to the patient's written consent. Notwithstanding the consent of the patient, such records maintained by the department are confidential and exempt from s. 119.07(1). This section shall not limit the psychotherapist-patient privileges of s. 90.503. Prior to a search, the department shall secure a search warrant from any judge authorized by law to issue search warrants. The search warrant shall be issued upon probable cause, supported by oath or affirmation particularly describing the things to be seized. The application for the warrant shall be sworn to and subscribed, and the judge may require further testimony from witnesses, supporting affidavits, or depositions in writing to support the application. The application and supporting information, if required, must set forth the facts tending to establish the grounds of the application or probable cause that they exist. If the judge is satisfied that probable cause exists, he or she shall issue a search warrant signed by him or her with the judge's his name of office to any agent or other person duly authorized by the department to execute process, commanding the agent or person to search the place described in the warrant for the property specified. The search warrant shall be served only by the agent or person mentioned in it and by no other person except an aide of the agent or person when such agent or person is present and acting in its execution.

Section 1101. Paragraph (b) of subsection (1), paragraph (e) of subsection (4), paragraph (e) of subsection (7), paragraph (a) of subsection (9), and subsection (11) of section 459.022, Florida Statutes (1996 Supplement), are amended to read:

459.022 Physician assistants.—

(1) LEGISLATIVE INTENT.—

(b) In order that maximum skills may be obtained within a minimum time period of education, a physician assistant shall be specialized to the extent that she or he can operate efficiently and effectively in the specialty areas in which she or he has been trained or is experienced.

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(e) A supervisory physician may delegate to a fully certified physician assistant the authority to prescribe any medication used in the supervisory physician's practice if such medication is listed on the formulary created pursuant to s. 458.347. A fully certified physician assistant may only prescribe such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that she or he is a physician assistant. Furthermore, the physician assistant must in-

form the patient that the patient has the right to see the physician prior to any prescription being prescribed by the physician assistant.

2. The supervisory physician must notify the agency of her or his intent to delegate, on an agency-approved form, before delegating such authority and with each certification renewal application filed by the physician assistant.

3. The physician assistant must file with the agency, before commencing to prescribe, evidence that she or he has completed a continuing medical education course of at least 3 classroom hours in prescriptive practice, conducted by an accredited program approved by the boards, which course covers the limitations, responsibilities, and privileges involved in prescribing medicinal drugs, or evidence that she or he has received education comparable to the continuing education course as part of an accredited physician assistant training program.

4. The physician assistant must file with the agency, before commencing to prescribe, evidence that the physician assistant has a minimum of 3 months of clinical experience in the specialty area of the supervising physician.

5. The physician assistant must file with the agency a signed affidavit that she or he has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each certification renewal application.

6. The agency shall issue certification and a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the foregoing requirements.

7. The prescription must be written in a form that complies with chapter 499 and must contain, in addition to the supervisory physician's name, address, and telephone number, the physician assistant's prescriber number. The prescription must be filled in a pharmacy permitted under chapter 465, and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The appearance of the prescriber number creates a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

8. The physician assistant must note the prescription in the appropriate medical record, and the supervisory physician must review and sign each notation. For dispensing purposes only, the failure of the supervisory physician to comply with these requirements does not affect the validity of the prescription.

9. This paragraph does not prohibit a supervisory physician from delegating to a physician assistant the authority to order medication for a hospitalized patient of the supervisory physician.

This paragraph does not apply to facilities licensed pursuant to chapter 395.

(7) PHYSICIAN ASSISTANT CERTIFICATION.—

(e) Notwithstanding subparagraph (a)2., the agency may grant to a recent graduate of an approved program, as specified in subsection (6), temporary certification to expire upon receipt of scores of the proficiency examination administered by the National Commission on Certification of Physician Assistants. Between meetings of the council, the agency may grant temporary certification to practice to physician assistant applicants based on the completion of all temporary certification requirements. All such administratively issued certifications shall be reviewed and acted on at the next regular meeting of the council. The recent graduate may be certified prior to employment, but must comply with paragraph (d). An applicant who has passed the proficiency examination may be granted permanent certification. An applicant failing the proficiency examination is no longer temporarily certified, but may reapply for a 1-year extension of temporary certification. An applicant may not be granted more than two temporary certificates and may not be certified as a physician assistant until she or he passes the examination administered by the National Commission on Certification of Physician Assistants. As prescribed by board rule, the council may require an applicant who does not pass the licensing examination after five or more attempts to complete additional remedial education or training. The council shall prescribe the additional requirements in a manner that permits the applicant to complete the requirements and be reexamined within 2 years after the date the applicant petitions the council to retake the examination a sixth or subsequent time.

(9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on Physician Assistants is created within the Agency for Health Care Administration.

(a) The council shall consist of five members appointed as follows:

1. The chairperson of the Board of Medicine shall appoint three members who are physicians and members of the Board of Medicine. One of the physicians must supervise a physician assistant in the physician's practice.

2. The chairperson of the Board of Osteopathic Medicine shall appoint one member who is a physician, supervises a physician assistant in the physician's practice, and is a member of the Board of Osteopathic Medicine.

3. The head of the agency or her or his designee shall appoint a fully certified physician assistant licensed under chapter 458 or this chapter.

(11) PENALTY.—Any person who has not been certified by the council and approved by the agency and who holds herself or himself out as a physician assistant or who uses any other term in indicating or implying that she or he is a physician assistant commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.084 or by a fine not exceeding \$5,000.

Section 1102. Paragraphs (b) and (c) of subsection (1) of section 460.406, Florida Statutes (1996 Supplement), are amended to read:

460.406 Licensure by examination.—

(1) Any person desiring to be licensed as a chiropractic physician shall apply to the department to take the licensure examination. There shall be an application fee set by the board not to exceed \$100 which shall be nonrefundable. There shall also be an examination fee not to exceed \$500 plus the actual per applicant cost to the department for purchase of portions of the examination from the National Board of Chiropractic Examiners or a similar national organization, which may be refundable if the applicant is found ineligible to take the examination. The department shall examine each applicant who the board certifies has:

(b) Submitted proof satisfactory to the department that he or she is not less than 18 years of age.

(c) Submitted proof satisfactory to the department that he or she is a graduate of a chiropractic college which is accredited by or has status with the Council on Chiropractic Education or its predecessor agency. However, any applicant who is a graduate of a chiropractic college that was initially accredited by the Council on Chiropractic Education in 1995, who graduated from such college within the 4 years immediately preceding such accreditation, and who is otherwise qualified shall be eligible to take the examination. No application for a license to practice chiropractic shall be denied solely because the applicant is a graduate of a chiropractic college that subscribes to one philosophy of chiropractic as distinguished from another.

Section 1103. Paragraphs (e), (o), (q), (t), and (w) of subsection (1) and subsections (3) and (5) of section 460.413, Florida Statutes (1996 Supplement), are amended to read:

460.413 Grounds for disciplinary action; action by the board.—

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

(e) Causing to be advertised, by any means whatsoever, any advertisement which does not contain an assertion or statement which would identify herself or himself as a chiropractic physician or identify such chiropractic clinic or related institution in which she or he practices or in which she or he is owner, in whole or in part, as a chiropractic institution.

(o) Performing professional services which have not been duly authorized by the patient or client or her or his legal representative except as provided in ss. 743.064, 766.103, and 768.13.

(q) Being unable to practice chiropractic with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. A chiropractic physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of chiropractic with reasonable skill and safety to patients.

(t) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(w) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(3) The department shall not reinstate the license of a chiropractic physician, or cause a license to be issued to a person the board has deemed unqualified, until such time as the board is satisfied that she or he has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of chiropractic.

(5) When an investigation of a chiropractic physician is undertaken, the department shall promptly furnish to the chiropractic physician or her or his attorney a copy of the complaint or document which resulted in the initiation of the investigation. The chiropractic physician may submit a written response to the information contained in such complaint or document within 45 days after service to the chiropractic physician of the complaint or document. The chiropractic physician's written response shall be considered by the probable cause panel.

Section 1104. Subsection (1) of section 464.009, Florida Statutes (1996 Supplement), is amended to read:

464.009 Licensure by endorsement.—

(1) The agency shall issue the appropriate license by endorsement to practice professional or practical nursing to an applicant who, upon applying to the agency and remitting a fee set by the board not to exceed \$100, demonstrates to the board that he or she:

(a) Holds a valid license to practice professional or practical nursing in another state of the United States, provided that, when the applicant secured his or her original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in Florida at that time; or

(b) Meets the qualifications for licensure in s. 464.008 and has successfully completed a state, regional, or national examination which is substantially equivalent to or more stringent than the examination given by the agency.

Section 1105. Subsections (1) and (4) of section 464.012, Florida Statutes (1996 Supplement), are amended to read:

464.012 Certification of advanced registered nurse practitioners; fees.—

(1) Any nurse desiring to be certified as an advanced registered nurse practitioner shall apply to the agency and submit proof that he or she holds a current license to practice professional nursing and that he or she meets one or more of the following requirements as determined by the board:

(a) Satisfactory completion of a formal postbasic educational program of at least one academic year, the primary purpose of which is to prepare nurses for advanced or specialized practice.

(b) Certification by an appropriate specialty board. Such certification shall be required for initial state certification and any recertification as a registered nurse anesthetist or nurse midwife. The board may by rule provide for provisional state certification of graduate nurse anesthetists and nurse midwives for a period of time determined to be appropriate for preparing for and passing the national certification examination.

(c) Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills. For applicants graduating on or after October 1, 1998, graduation from a master's degree program shall be required for initial certification as a nurse practitioner under paragraph (4)(c). For applicants graduating on or after October 1, 2001, graduation from a master's degree program shall be required for initial certification as a registered nurse anesthetist under paragraph (4)(a).

(4) In addition to the general functions specified in subsection (3), an advanced registered nurse practitioner may perform the following acts within his or her specialty:

(a) The certified registered nurse anesthetist may, to the extent authorized by established protocol approved by the medical staff of the facility in which the anesthetic service is performed, perform any or all of the following:

1. Determine the health status of the patient as it relates to the risk factors and to the anesthetic management of the patient through the performance of the general functions.

2. Based on history, physical assessment, and supplemental laboratory results, determine, with the consent of the responsible physician, the appropriate type of anesthesia within the framework of the protocol.

3. Order under the protocol preanesthetic medication.

4. Perform under the protocol procedures commonly used to render the patient insensible to pain during the performance of surgical, obstetrical, therapeutic, or diagnostic clinical procedures. These procedures include ordering and administering regional, spinal, and general anesthesia; inhalation agents and techniques; intravenous agents and techniques; and techniques of hypnosis.

5. Order or perform monitoring procedures indicated as pertinent to the anesthetic health care management of the patient.

6. Support life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances.

7. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.

8. Recognize and treat a cardiac arrhythmia while the patient is under anesthetic care.

9. Participate in management of the patient while in the postanesthesia recovery area, including ordering the administration of fluids and drugs.

10. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate.

(b) The certified nurse midwife may, to the extent authorized by an established protocol which has been approved by the medical staff of the health care facility in which the midwifery services are performed, or approved by the nurse midwife's physician backup when the delivery is performed in a patient's home, perform any or all of the following:

1. Perform superficial minor surgical procedures.
2. Manage the patient during labor and delivery to include amniotomy, episiotomy, and repair.
3. Order, initiate, and perform appropriate anesthetic procedures.
4. Perform postpartum examination.
5. Order appropriate medications.
6. Provide family-planning services and well-woman care.
7. Manage the medical care of the normal obstetrical patient and the initial care of a newborn patient.

(c) The nurse practitioner may perform any or all of the following acts within the framework of established protocol:

1. Manage selected medical problems.
2. Order physical and occupational therapy.
3. Initiate, monitor, or alter therapies for certain uncomplicated acute illnesses.
4. Monitor and manage patients with stable chronic diseases.
5. Establish behavioral problems and diagnosis and make treatment recommendations.

Section 1106. Paragraph (j) of subsection (1) of section 464.018, Florida Statutes (1996 Supplement), is amended to read:

464.018 Disciplinary actions.—

(1) The following acts shall be grounds for disciplinary action set forth in this section:

(j) Being unable to practice nursing with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, or chemicals or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the agency shall have, upon a finding of the director or ~~the director's~~ his designee that probable cause exists to believe that the licensee is unable to practice nursing because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the agency. If the licensee refuses to comply with such order, the agency's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The agency shall be entitled to the summary procedure provided in s. 51.011. A nurse affected by the provisions of this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of nursing with reasonable skill and safety to patients.

Section 1107. Subsection (1) of section 466.004, Florida Statutes (1996 Supplement), is amended to read:

466.004 Board of Dentistry.—

(1) To carry out the provisions of this chapter, there is created within the department the Board of Dentistry consisting of 11 members who shall be appointed by the Governor and subject to confirmation by the Senate. Seven members of the board must be licensed dentists actively engaged in the practice of dentistry in this state; two members must be licensed dental hygienists actively engaged in the practice of dental hygiene in this state; and the remaining two members must be laypersons who are not, and have never been, dentists, dental hygienists, or members of any closely related profession or occupation. Each dental member of the board must have been actively engaged in her or his respective profession for at least 5 years preceding the date of her or his appointment to the board. At least one member of the board must be 60 years of age or older. Members shall be appointed for 4-year terms.

Section 1108. Paragraph (a) of subsection (3) and paragraph (b) of subsection (4) of section 466.007, Florida Statutes (1996 Supplement), are amended to read:

466.007 Examination of dental hygienists.—

(3) A graduate of a dental college or school shall be entitled to take the examinations required in this section to practice dental hygiene in this state if, in addition to the requirements specified in subsection (2), the graduate meets the following requirements:

(a) Submits the following credentials for review by the board:

1. Transcripts of pre-dental education and dental education totaling 5 academic years of postsecondary education, including 4 academic years of dental education; and

2. A dental school diploma which is comparable to a D.D.S. or D.M.D.

Such credentials shall be submitted in a manner provided by rule of the board. The board shall approve those credentials which comply with this paragraph and with rules of the board adopted pursuant to this paragraph. The provisions of this paragraph notwithstanding, an applicant of a foreign dental college or school not accredited in accordance with s. 466.006(2)(b) who cannot produce the credentials required by this paragraph, as a result of political or other conditions in the country in which the applicant ~~he~~ received his or her education, may seek the board's approval of his or her educational background by submitting, in lieu of the credentials required in this paragraph, such other reasonable and reliable evidence as may be set forth by board rule. The board shall not accept such other evidence until it has made a reasonable attempt to obtain the credentials required by this paragraph from the educational institutions the applicant is alleged to have attended, unless the board is otherwise satisfied that such credentials cannot be obtained.

(4) To be licensed as a dental hygienist in this state, an applicant must successfully complete the following:

(b) A practical or clinical examination. The practical or clinical examination shall test competency in areas to be established by rule of the board which shall include testing the ability to adequately perform a prophylaxis. On or after October 1, 1986, every applicant who is otherwise qualified shall be eligible to take the examination a total of three times, notwithstanding the number of times the applicant has previously failed. If an applicant fails the examination three times, the applicant shall no longer be eligible to take the examination unless he or she obtains additional educational requirements established by the board. The department shall require a mandatory standardization exercise pursuant to s. 455.217(1)(b) for all examiners prior to each practical or clinical examination and shall retain for employment only those dentists and dental hygienists who have substantially adhered to the standard of grading established at such exercise. It is the intent of the Legislature that the examinations relate to those procedures which are actually performed by a dental hygienist in general practice.

Section 1109. Subsection (1) of section 466.022, Florida Statutes (1996 Supplement), is amended to read:

466.022 Peer review; records; immunity.—

(1) The Legislature finds that effective peer review of consumer complaints by professional associations of dentists is a valuable service to the public. In performing such service, any member of a peer review organization or committee shall, pursuant to s. 466.028(1)(f), report to the department the name of any licensee who he or she believes has violated this chapter. Any such peer review committee member shall be afforded the privileges and immunities of any other complainant or witness which are provided by s. 455.225(11). Furthermore, a professional organization or association of dentists which sponsors, sanctions, or otherwise operates or participates in peer review activities is hereby afforded the same privileges

and immunities afforded to any member of a duly constituted medical review committee by s. 766.101(3).

Section 1110. Section 466.0275, Florida Statutes (1996 Supplement), is amended to read:

466.0275 Lawful investigations; consent handwriting samples; mental or physical examination.—Every dentist who accepts a license to practice dentistry in this state shall, by so accepting the license or by making and filing a renewal of licensure to practice in this state, be deemed to have given consent, during a lawful investigation of a complaint to the following:

(1) To render a handwriting sample to an agent of the department and, further, to have waived any objections to its use as evidence against her or him.

(2) Only in those circumstances where there is probable cause that the dentist is guilty of violations involving moral turpitude, impairment, violations of laws governing controlled substances, or any violation of criminal law, the dentist shall be deemed to waive the confidentiality and to execute a release of medical reports pertaining to the mental or physical condition of the dentist herself or himself. The department shall issue an order, based on the need for additional information, to produce such medical reports for the time period relevant to the investigation. As used in this section, “medical reports” means a compilation of medical treatment of the dentist herself or himself which includes symptoms, diagnosis, treatment prescribed, relevant history, and progress. The dentist shall also be deemed to waive any objection to the admissibility of the reports as constituting privileged communications. Such material maintained by the department shall remain confidential and exempt from s. 119.07(1) until probable cause is found and an administrative complaint issued.

Section 1111. Subsection (1) of section 466.0282, Florida Statutes (1996 Supplement), is amended to read:

466.0282 Specialties.—

(1) A dentist licensed under this chapter may not hold himself or herself out as a specialist, advertise membership in or specialty recognition by an accrediting organization, or advertise that his or her practice is limited to a specific area of dentistry, unless the dentist:

(a) Has completed a specialty education program approved by the American Dental Association and the Commission on Dental Accreditation;

(b) Is eligible for examination by a national specialty board recognized by the American Dental Association;

(c) Is a diplomate of a national specialty board recognized by the American Dental Association; or

(d) Has continuously held himself or herself out as a specialist since December 31, 1964, in a specialty recognized by the American Dental Association.

Section 1112. Subsections (2) and (4) of section 466.032, Florida Statutes (1996 Supplement), are amended to read:

466.032 Registration.—

(2) Upon the failure of any dental laboratory operator to comply with subsection (1), the department shall notify her or him by registered mail, within 1 month after the registration renewal date, return receipt requested, at her or his last known address, of such failure and inform her or him of the provisions of subsections (3) and (4).

(4) The department is authorized to commence and maintain proceedings to enjoin the operator of any dental laboratory who has not complied with this section from operating a dental laboratory in this state until she or he has obtained a registration certificate and paid the required fees.

Section 1113. Subsections (1) and (2) and paragraph (b) of subsection (6) of section 468.302, Florida Statutes (1996 Supplement), are amended to read:

468.302 Use of radiation; identification of certified persons; limitations; exceptions.—

(1) Except as hereinafter provided, no person shall use radiation on a human being unless he or she:

(a) Is a licensed practitioner; or

(b) Is the holder of a certificate, as provided in this part, and is operating under the direct supervision or general supervision of a licensed practitioner in each particular case.

(2)(a) A person holding a certificate as a basic X-ray machine operator may use the title “Basic X-ray Machine Operator.”

(b) A person holding a certificate as a basic X-ray machine operator-podiatry may use the title “Basic X-ray Machine Operator-Podiatry.”

(c) A person holding a certificate as a general radiographer may use the title “Certified Radiologic Technologist-Radiographer” or the letters “CRT-R” after his or her name.

(d) A person holding a certificate as a limited computed tomography technologist may use the title “Certified Radiologic Technologist-Computed Tomography” or the letters “CRT-C” after his or her name.

(e) A person holding a certificate as a radiation therapy technologist may use the title “Certified Radiologic Technologist-Therapy” or the letters “CRT-T” after his or her name.

(f) A person holding a certificate as a nuclear medicine technologist may use the title “Certified Radiologic Technologist-Nuclear Medicine” or the letters “CRT-N” after his or her name.

No other person is entitled to so use a title or letters contained in this subsection or to hold himself or herself out in any way, whether orally or in writing, expressly or by implication, as being so certified.

(6) Requirement for certification does not apply to:

(b) A person who is engaged in performing the duties of a radiologic technologist in his or her employment by a governmental agency of the United States.

Section 1114. Subsection (1) of section 468.432, Florida Statutes (1996 Supplement), is amended to read:

468.432 Licensure of community association managers; exceptions.—

(1) A person shall not manage or hold herself or himself out to the public as being able to manage a community association in this state unless she or he is licensed by the department in accordance with the provisions of this part. However, nothing in this part prohibits any person licensed in this state under any other law or court rule from engaging in the profession for which she or he is licensed.

Section 1115. Section 470.035, Florida Statutes (1996 Supplement), is amended to read:

470.035 Itemized price lists.—A licensee shall be subject to disciplinary action as provided in this chapter if he or she:

(1) Fails to furnish for retention to anyone who inquires in person about the arrangement of funeral merchandise and services, before any discussion of selection, a printed or typewritten list concerning the retail prices for at least each of the following items, if regularly offered for sale:

- (a) Transfer of the body to the funeral home.
- (b) Embalming, together with the statement that embalming is not required by state law.
- (c) Use of facilities for viewing.
- (d) Use of facilities for funeral service.
- (e) Use of hearse.
- (f) Use of limousine.
- (g) Other transportation.
- (h) Casket price range with a statement that a complete price list is available.
- (i) Alternative container price range.
- (j) Outer burial container price range with a statement that a complete price list is available.

(k) Other professional services.

(2) Fails to include on the list provided in subsection (1) the name, address, and telephone number of the funeral establishment and the statement that the consumer may choose only the items he or she desires, that the consumer ~~he~~ will be charged for only those items he or she selects, and that there may be extra charges for other items such as a cemetery fee and flowers.

(3) Fails to furnish for retention to each customer making arrangements a written agreement listing at least the following categories of services and merchandise, if selected by the customer, together with the price for each item:

(a) Embalming.

(b) Other preparation of the body.

(c) Use of facilities for viewing.

(d) Use of facilities for funeral ceremony.

(e) Services of funeral director and staff.

(f) Casket or alternative container as selected.

(g) Other specifically itemized charges for merchandise, services, facilities, or transportation.

(h) Specifically itemized cash advances, to the extent then known. If estimates are given, a written statement of the actual charges must be provided before the final bill is paid; provided that the charge for the item provided in paragraph (e) is to reflect only those services actually provided. The principal services actually provided for this charge must be specified in writing.

(4) Fails to include on the written agreement required by subsection (3) the name, address, and telephone number of the funeral home and the statement that charges are only for those items that are used and that, if the type of funeral selected requires extra items, an explanation will be given.

(5) Fails to include immediately below the items required by subsection (3) the signatures of the customer and the funeral director and the date signed.

Section 1116. Paragraph (d) of subsection (1) of section 473.322, Florida Statutes (1996 Supplement), is amended to read:

473.322 Prohibitions; penalties.—

(1) A person may not knowingly:

(d) Present as her or his own the license of another;

Section 1117. Section 474.2185, Florida Statutes (1996 Supplement), is amended to read:

474.2185 Veterinarians consent; handwriting samples; mental or physical examinations.—A veterinarian who accepts a license to practice veterinary medicine in this state shall, by so accepting the license or by making and filing a renewal of licensure to practice in this state, be deemed to have given her or his consent, during a lawful investigation of a complaint or of an application for licensure and when the information has been deemed necessary and relevant to the investigation as determined by the secretary of the department, to the following:

(1) To render a handwriting sample to an agent of the department and, further, to have waived any objections to its use as evidence against her or him.

(2) To waive the confidentiality and authorize the preparation and release of medical reports pertaining to the mental or physical condition of the licensee himself when the department has reason to believe that a violation of this chapter has occurred and when the department issues an order, based on the need for additional information, to produce such medical reports for the time period relevant to the complaint. As used in this section, “medical reports” means a compilation of medical treatment of the licensee himself which shall include symptoms, diagnosis, treatment prescribed, relevant history, and progress.

(3) To waive any objection to the admissibility of the reports as constituting privileged communications. Such material maintained by the department is confidential and exempt from s. 119.07(1) until probable cause is found and an administrative complaint is issued.

Section 1118. Paragraphs (b) and (c) of subsection (2), paragraphs (a) and (b) of subsection (4), and paragraph (a) of subsection (6) of section 475.045, Florida Statutes (1996 Supplement), are amended to read:

475.045 Florida Real Estate Commission Education and Research Foundation; Foundation Advisory Committee.—

(2)

(b)1. No current member of the Florida Real Estate Commission shall be eligible for appointment to the Foundation Advisory Committee.

2. The chair ~~chairman~~ of the Florida Real Estate Commission or a member of the commission designated by the chair ~~him~~ shall serve as an ex officio nonvoting member of the advisory committee.

(c)1. Except for the initial appointees, members of the advisory committee shall hold office for staggered terms of 4 years, with the terms of three members expiring on January 31 of each odd-numbered year. The current members may complete their present terms unless removed for cause.

2. Any vacancy shall be filled by appointment for the unexpired portion of the term. Each member shall serve until the member's ~~his~~ successor is qualified.

3. Each member of the advisory committee is entitled to per diem and travel expenses as set by legislative appropriation for each day that the member engages in the business of the advisory committee.

(4)(a) The committee shall elect a chair ~~chairman~~ annually from among its membership.

(b) The committee shall meet not less than semiannually and, in addition, on call of its chair ~~chairman~~ or on petition of any six of its members.

(6)(a) The director of the Division of Real Estate of the department, hereinafter referred to as the "director," or her or his designated representative shall submit to the advisory committee, in advance of each fiscal year, a budget for expenditures of all funds provided for the foundation in a form that is related to the proposed schedule of activities for the review and approval of the advisory committee.

Section 1119. Subsection (6) of section 475.612, Florida Statutes (1996 Supplement), is amended to read:

475.612 Certification or licensure required.—

(6) This section shall not apply to any employee of a local, state, or federal agency who performs appraisal services within the scope of her or his employment. However, this exemption shall not apply where any local, state, or federal agency requires an employee to be registered, licensed, or certified to perform appraisal services.

Section 1120. Subsection (2), paragraph (b) of subsection (3), and paragraph (b) of subsection (8) of section 479.07, Florida Statutes (1996 Supplement), are amended to read:

479.07 Sign permits.—

(2) A person may not apply for a permit unless he or she has first obtained the written permission of the owner or other person in lawful possession or control of the site designated as the location of the sign in the application for the permit.

(3)

(b) As part of the application, the applicant or his or her authorized representative must certify in a notarized signed statement that all information provided in the application is true and correct and that, pursuant to subsection (2), he or she has obtained the written permission of the owner or other person in lawful possession of the site designated as the location of the sign in the permit application. Every permit application must be accompanied by the appropriate permit fee; a signed statement by the owner or other person in lawful control of the site on which the sign is located or will be erected, authorizing the placement of the sign on that site; and, where local governmental regulation of signs exists, a statement from the appropriate local governmental official indicating that the sign complies with all local governmental requirements and that the agency or unit of local govern-

ment will issue a permit to that applicant upon approval of the state permit application by the department.

(8)

(b) If a permittee has not submitted his or her fee payment by the expiration date of the licenses or permits, the department shall send a notice of violation to the permittee within 45 days after the expiration date, requiring the payment of the permit fee within 30 days after the date of the notice and payment of a delinquency fee equal to 10 percent of the original amount due or, in the alternative to these payments, requiring the filing of a request for an administrative hearing to show cause why his or her sign should not be subject to immediate removal due to expiration of his or her license or permit. If the permittee submits payment as required by the violation notice, his or her license or permit will be automatically reinstated and such reinstatement will be retroactive to the original expiration date. If the permittee does not respond to the notice of violation within the 30-day period, the department shall, within 30 days, issue a final notice of sign removal and may, following 90 days after the date of the department's final notice of sign removal, remove the sign without incurring any liability as a result of such removal. However, if within 90 days after the date of the department's final notice of sign removal, the permittee demonstrates that a good faith error on the part of the permittee resulted in cancellation or nonrenewal of the permit, the department may reinstate the permit if:

1. The sign has not yet been disassembled by the permittee;
2. Conflicting applications have not been filed by other persons;
3. The permit reinstatement fee of \$300 is paid;
4. All other permit renewal and delinquent permit fees due as of the reinstatement date are paid; and
5. The permittee reimburses the department for all actual costs resulting from the permit cancellation or nonrenewal and sign removal.

Section 1121. Paragraph (a) of subsection (2) of section 479.105, Florida Statutes (1996 Supplement), is amended to read:

479.105 Signs erected or maintained without required permit; removal.—

(2)(a) If a sign is under construction and the department determines that a permit has not been issued for the sign as required under the provisions of this chapter, the department is authorized to require that all work on the sign cease until the sign owner shows that the sign does not violate the provisions of this chapter. The order to cease work shall be prominently posted on the sign structure, and no further notice is required to be given. The failure of a sign owner or her or his agents to immediately comply with the order shall subject the sign to prompt removal by the department.

Section 1122. Subsections (5), (8), and (9) of section 487.031, Florida Statutes (1996 Supplement), are amended to read:

487.031 Prohibited acts.—It is unlawful:

(5) For any person to use for his or her own advantage or to reveal any information relative to formulas of products acquired by authority of this part, other than to: the department, proper officials, or employees of the state; the courts of this state in response to a subpoena; physicians, pharmacists, and other qualified persons, in an emergency, for use in the preparation of antidotes. The information relative to formulas of products is confidential and exempt from the provisions of s. 119.07(1).

(8) To hold or offer for sale, sell, or distribute in this state restricted-use pesticides without a dealer's license and unless the person to whom the sale is made holds a valid applicator's license to purchase and use such restricted-use pesticides or holds a valid purchase authorization card, in which case the use of the restricted-use pesticide shall be by a licensed applicator or an employee under his or her direct supervision.

(9) For any person to purchase any restricted-use pesticide unless the person ~~he~~ is the holder of a valid dealer's license, applicator's license, or purchase authorization card or to use a restricted-use pesticide unless the person ~~he~~ is the holder of a valid applicator's license or unless he or she is using the restricted-use pesticide under the direct supervision of a licensed applicator.

Section 1123. Subsections (3) and (7) of section 487.041, Florida Statutes (1996 Supplement), are amended to read:

487.041 Registration.—

(3) The department shall adopt rules governing the procedures for pesticide registration and for the review of data submitted by an applicant for registration of a pesticide. The department shall determine whether a pesticide should be registered, registered with conditions, or tested under field conditions in this state. The department shall determine that all requests for pesticide registrations meet the requirements of current state and federal law. The department, whenever it deems it necessary in the administration of this part, may require the manufacturer or registrant to submit the complete formula, quantities shipped into or manufactured in the state for distribution and sale, evidence of the efficacy and the safety of any pesticide, and other relevant data. The department, for reasons of adulteration, misbranding, or other good cause, may refuse or revoke the registration of any pesticide, after notice to the applicant or registrant giving the reason for the decision. The applicant may then request a hearing, pursuant to chapter 120, on the intention of the department to refuse or revoke registration, and, upon his or her failure to do so, the refusal or revocation shall become final without further procedure. In no event shall registration of a pesticide be construed as a defense for the commission of any offense prohibited under this part.

(7) In the discharge of duties under this section, the department shall seek the review and comment of other appropriate agencies. The procedures for obtaining review and comment shall be established through memoranda of understanding or cooperative agreements. Confidential data received by

such governmental agencies from the department shall be confidential and exempt from the provisions of s. 119.07(1); and it is unlawful for any member of such agency or of the department to use the data for his or her own advantage or to reveal the data to the public.

Section 1124. Paragraphs (d) and (e) of subsection (1) and paragraph (c) of subsection (2) of section 487.0615, Florida Statutes (1996 Supplement), are amended to read:

487.0615 Pesticide Review Council.—

(1)

(d) The members of the council shall meet and organize by electing a chair ~~chairman~~, a vice chair ~~chairman~~, and a secretary whose terms shall be for 1 year each. Council officers may not serve consecutive terms.

(e) The council shall meet at the call of its chair ~~chairman~~, at the request of a majority of its members, at the request of the department, or at such time as a public health or environmental emergency arises.

(2) The council shall have the power and duty to:

(c) Provide advice or information to appropriate governmental agencies, including the State University System, with respect to those activities related to their responsibilities regarding pesticides. However, confidential data received from the United States Environmental Protection Agency or the registrant shall be confidential and exempt from the provisions of s. 119.07(1); and it is unlawful for any member of the council to use the data for his or her own advantage or to reveal the data to the general public.

Section 1125. Paragraph (a) of subsection (2), subsections (3) and (4), paragraph (b) of subsection (9), and subsection (11) of section 489.103, Florida Statutes (1996 Supplement), are amended to read:

489.103 Exemptions.—This part does not apply to:

(2) Any employee of a certificateholder or registrant who is acting within the scope of the license held by that certificateholder or registrant and with the knowledge and permission of the licenseholder. However:

(a) If the employer is not a certificateholder or registrant in that type of contracting, and the employee performs any of the following, the employee is not exempt:

1. Holds himself or herself or his or her employer out to be licensed or qualified by a licensee;
2. Leads the consumer to believe that the employee has an ownership or management interest in the company; or
3. Performs any of the acts which constitute contracting.

For the purpose of this part, “employee” is defined as a person who receives compensation from and is under the supervision and control of an employer who regularly deducts the F.I.C.A. and withholding tax and provides workers’ compensation, all as prescribed by law.

(3) An authorized employee of the United States, this state, or any municipality, county, irrigation district, reclamation district, or any other municipal or political subdivision, except school boards, the Board of Regents, and community colleges, unless for the purpose of performing routine maintenance or repair or construction not exceeding \$200,000 to existing installations, if the employee does not hold himself or herself out for hire or otherwise engage in contracting except in accordance with his or her employment. If the construction, remodeling, or improvement exceeds \$200,000, school boards, the Board of Regents, and community colleges, shall not divide the project into separate components for the purpose of evading this section.

(4) An officer appointed by a court when he or she is acting within the scope of his or her office as defined by law or court order. When construction projects which were not underway at the time of appointment of the officer are undertaken, the officer shall employ or contract with a licensee.

(9) Any work or operation of a casual, minor, or inconsequential nature in which the aggregate contract price for labor, materials, and all other items is less than \$1,000, but this exemption does not apply:

(b) To a person who advertises that he or she is a contractor or otherwise represents that he or she is qualified to engage in contracting.

(11) A registered architect or engineer acting within the scope of his or her practice or any person exempted by the law regulating architects and engineers, including persons doing design work as specified in s. 481.229(1)(b); provided, however, that an architect or engineer shall not act as a contractor unless properly licensed under this chapter.

Section 1126. Subsections (3), (4), and (5) of section 489.105, Florida Statutes (1996 Supplement), are amended to read:

489.105 Definitions.—As used in this part:

(3) “Contractor” means the person who is qualified for, and shall only be responsible for, the project contracted for and means, except as exempted in this part, the person who, for compensation, undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others; and whose job scope is substantially similar to the job scope described in one of the subsequent paragraphs of this subsection. For the purposes of regulation under this part, “demolish” applies only to demolition of steel tanks over 50 feet in height; towers over 50 feet in height; other structures over 50 feet in height, other than buildings or residences over three stories tall; and buildings or residences over three stories tall. Contractors are subdivided into two divisions, Division I, consisting of those contractors

defined in paragraphs (a)-(c), and Division II, consisting of those contractors defined in paragraphs (d)-(q):

(a) “General contractor” means a contractor whose services are unlimited as to the type of work which he or she may do, except as provided in this part.

(b) “Building contractor” means a contractor whose services are limited to construction of commercial buildings and single-dwelling or multiple-dwelling residential buildings, which commercial or residential buildings do not exceed three stories in height, and accessory use structures in connection therewith or a contractor whose services are limited to remodeling, repair, or improvement of any size building if the services do not affect the structural members of the building.

(c) “Residential contractor” means a contractor whose services are limited to construction, remodeling, repair, or improvement of one-family, two-family, or three-family residences not exceeding two habitable stories above no more than one uninhabitable story and accessory use structures in connection therewith.

(d) “Sheet metal contractor” means a contractor whose services are unlimited in the sheet metal trade and who has the experience, knowledge, and skill necessary for the manufacture, fabrication, assembling, handling, erection, installation, dismantling, conditioning, adjustment, insulation, alteration, repair, servicing, or design, when not prohibited by law, of ferrous or nonferrous metal work of U.S. No. 10 gauge or its equivalent or lighter gauge and of other materials, including, but not limited to, fiberglass, used in lieu thereof and of air-handling systems, including the setting of air-handling equipment and reinforcement of same and including the balancing of air-handling systems.

(e) “Roofing contractor” means a contractor whose services are unlimited in the roofing trade and who has the experience, knowledge, and skill to install, maintain, repair, alter, extend, or design, when not prohibited by law, and use materials and items used in the installation, maintenance, extension, and alteration of all kinds of roofing, waterproofing, and coating, except when coating is not represented to protect, repair, waterproof, stop leaks, or extend the life of the roof.

(f) “Class A air-conditioning contractor” means a contractor whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as is necessary to make complete an air-distribution system, boiler and unfired pressure vessel systems, and all appurtenances, apparatus, or equipment used in connection therewith; to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, piping, insulation of pipes, vessels and ducts, pressure and process piping, and pneumatic control piping; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install,

disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor shall also include any excavation work incidental thereto, but shall not include any work such as liquefied petroleum or natural gas fuel lines within buildings, potable water lines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring.

(g) "Class B air-conditioning contractor" means a contractor whose services are limited to 25 tons of cooling and 500,000 Btu of heating in any one system in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as is necessary to make complete an air-distribution system being installed under this classification; to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, piping and insulation of pipes, vessels, and ducts; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor shall also include any excavation work incidental thereto, but shall not include any work such as liquefied petroleum or natural gas fuel lines within buildings, potable water lines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring.

(h) "Class C air-conditioning contractor" means a contractor whose business is limited to the servicing of air-conditioning, heating, or refrigeration systems, including duct alterations in connection with those systems he or she is servicing, and whose certification or registration, issued pursuant to this part, was valid on October 1, 1988. No person not previously registered or certified as a Class C air-conditioning contractor as of October 1, 1988, shall be so registered or certified after October 1, 1988. However, the board shall continue to license and regulate those Class C air-conditioning contractors who held Class C licenses prior to October 1, 1988.

(i) "Mechanical contractor" means a contractor whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as is necessary to make complete an air-distribution system, boiler and unfired pressure vessel systems, lift station equipment and piping, and all appurtenances, apparatus, or equipment used in connection therewith; to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, piping, insulation of pipes, vessels and ducts, pressure and process piping, pneumatic control piping, gasoline tanks and pump installations and

pipng for same, standpipes, air piping, vacuum line piping, oxygen lines, nitrous oxide piping, ink and chemical lines, fuel transmission lines, and natural gas fuel lines within buildings; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor shall also include any excavation work incidental thereto, but shall not include any work such as liquefied petroleum gas fuel lines within buildings, potable water lines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring.

(j) "Commercial pool/spa contractor" means a contractor whose scope of work involves, but is not limited to, the construction, repair, and servicing of any swimming pool, or hot tub or spa, whether public, private, or otherwise, regardless of use, including the repair or replacement of existing equipment or the installation of new equipment, as necessary. The scope of such work includes layout, excavation, operation of construction pumps for dewatering purposes, steelwork, installation of light niches, construction of floors, guniting, fiberglassing, installation of tile and coping, installation of all perimeter and filter piping, installation of all filter equipment and chemical feeders of any type, plastering of the interior, construction of decks, construction of equipment rooms or housing for pool equipment, and installation of package pool heaters and also includes the scope of work of a swimming pool/spa servicing contractor. However, the scope of such work does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction, modification, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning shall not require licensure unless the usage involves construction, modification, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. In addition, a license shall not be required for the cleaning of the pool or spa in any way that does not affect the structural integrity of the pool or spa or its associated equipment.

(k) "Residential pool/spa contractor" means a contractor whose scope of work involves, but is not limited to, the construction, repair, and servicing of any residential swimming pool or hot tub or spa, regardless of use, including the repair or replacement of existing equipment or the installation of new equipment, as necessary. The scope of such work includes layout, excavation, operation of construction pumps for dewatering purposes, steelwork, installation of light niches, construction of floors, guniting, fiberglassing, installation of tile and coping, installation of all perimeter and filter piping, installation of all filter equipment and chemical feeders of any type, plastering of the interior, construction of decks, installation of housing for pool equipment, and installation of package pool heaters and also includes the scope of work of a swimming pool/spa servicing contractor. However, the scope of such work does not include direct connections to a sanitary sewer

system or to potable water lines. The installation, construction, modification, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning shall not require licensure unless the usage involves construction, modification, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. In addition, a license shall not be required for the cleaning of the pool or spa in any way that does not affect the structural integrity of the pool or spa or its associated equipment.

(l) "Swimming pool/spa servicing contractor" means a contractor whose scope of work involves the servicing and repair of any swimming pool or hot tub or spa, whether public or private. The scope of such work may include any necessary piping and repairs, replacement and repair of existing equipment, or installation of new additional equipment as necessary. The scope of such work includes the reinstallation of tile and coping, repair and replacement of all piping, filter equipment, and chemical feeders of any type, replastering, reconstruction of decks, and reinstallation or addition of pool heaters. The installation, construction, modification, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning shall not require licensure unless the usage involves construction, modification, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. In addition, a license shall not be required for the cleaning of the pool or spa in any way that does not affect the structural integrity of the pool or spa or its associated equipment.

(m) "Plumbing contractor" means a contractor whose contracting business consists of the execution of contracts requiring the experience, financial means, knowledge, and skill to install, maintain, repair, alter, extend, or, when not prohibited by law, design plumbing. A plumbing contractor may install, maintain, repair, alter, extend, or, when not prohibited by law, design the following without obtaining any additional local regulatory license, certificate, or registration: sanitary drainage or storm drainage facilities; venting systems; public or private water supply systems; septic tanks; drainage and supply wells; swimming pool piping; irrigation systems; or solar heating water systems and all appurtenances, apparatus, or equipment used in connection therewith, including boilers and pressure process piping and including the installation of water, natural gas (excluding liquid petroleum gases), and storm and sanitary sewer lines; and water and sewer plants and substations. The scope of work of the plumbing contractor also includes the design, when not prohibited by law, and installation, maintenance, repair, alteration, or extension of air-piping, vacuum line piping, oxygen line piping, nitrous oxide piping, and all related medical gas systems; fire line standpipes and fire sprinklers to the extent authorized by law; ink and chemical lines; fuel oil and gasoline piping and tank and pump installation, except bulk storage plants; and pneumatic control piping systems, all in such a manner as to comply with all plans, specifications, codes, laws, and regulations applicable. The scope of work of the plumbing contractor shall

apply to private property and public property, shall include any excavation work incidental thereto, and shall include the work of the specialty plumbing contractor. Such contractor shall subcontract, with a qualified contractor in the field concerned, all other work incidental to the work but which is specified herein as being the work of a trade other than that of a plumbing contractor. Nothing in this definition shall be construed to limit the scope of work of any specialty contractor certified pursuant to s. 489.113(6). Nothing in this definition shall be construed to require certification or registration under this part of any authorized employee of a public natural gas utility or of a private natural gas utility regulated by the Public Service Commission when disconnecting and reconnecting water lines in the servicing or replacement of an existing water heater.

(n) "Underground utility and excavation contractor" means a contractor whose services are limited to the construction, installation, and repair, on public or private property, of main sanitary sewer collection systems, main water distribution systems, storm sewer collection systems, and the continuation of utility lines from the main systems to a point of termination up to and including the meter location for the individual occupancy, sewer collection systems at property line on residential or single-occupancy commercial properties, or on multioccupancy properties at manhole or wye lateral extended to an invert elevation as engineered to accommodate future building sewers, water distribution systems, or storm sewer collection systems at storm sewer structures. However, an underground utility and excavation contractor may install empty underground conduits in rights-of-way, easements, platted rights-of-way in new site development, and sleeves for parking lot crossings no smaller than 2 inches in diameter, provided that each conduit system installed is designed by a licensed professional engineer or an authorized employee of a municipality, county, or public utility and that the installation of any such conduit does not include installation of any conductor wiring or connection to an energized electrical system. An underground utility and excavation contractor shall not install any piping that is an integral part of a fire protection system as defined in s. 633.021(7) beginning at the point where the piping is used exclusively for such system.

(o) "Solar contractor" means a contractor whose services consist of the installation, alteration, repair, maintenance, relocation, or replacement of solar panels for potable solar water heating systems, swimming pool solar heating systems, and photovoltaic systems and any appurtenances, apparatus, or equipment used in connection therewith, whether public, private, or otherwise, regardless of use. A contractor, certified or registered pursuant to the provisions of this chapter, is not required to become a certified or registered solar contractor or to contract with a solar contractor in order to provide any services enumerated in this paragraph that are within the scope of the services such contractors may render under this part.

(p) "Pollutant storage systems contractor" means a contractor whose services are limited to, and who has the experience, knowledge, and skill to install, maintain, repair, alter, extend, or design, when not prohibited by law, and use materials and items used in the installation, maintenance, extension, and alteration of, pollutant storage tanks. Any person installing

a pollutant storage tank shall perform such installation in accordance with the standards adopted pursuant to s. 376.303.

(q) “Specialty contractor” means a contractor whose scope of work and responsibility is limited to a particular phase of construction and whose scope is limited to a subset of the activities described in the categories established in one of the paragraphs of this subsection.

(4) “Primary qualifying agent” means a person who possesses the requisite skill, knowledge, and experience, and has the responsibility, to supervise, direct, manage, and control the contracting activities of the business organization with which he or she is connected; who has the responsibility to supervise, direct, manage, and control construction activities on a job for which he or she has obtained the building permit; and whose technical and personal qualifications have been determined by investigation and examination as provided in this part, as attested by the department.

(5) “Secondary qualifying agent” means a person who possesses the requisite skill, knowledge, and experience, and has the responsibility to supervise, direct, manage, and control construction activities on a job for which he or she has obtained a permit, and whose technical and personal qualifications have been determined by investigation and examination as provided in this part, as attested by the department.

Section 1127. Paragraphs (a) and (b) of subsection (3), paragraph (a) of subsection (5), and subsection (6) of section 489.119, Florida Statutes (1996 Supplement), are amended to read:

489.119 Business organizations; qualifying agents.—

(3)(a) The qualifying agent shall be certified or registered under this part in order for the business organization to be certified or registered in the category of the business conducted for which the qualifying agent is certified or registered. If any qualifying agent ceases to be affiliated with such business organization, he or she shall so inform the department. In addition, if such qualifying agent is the only certified or registered contractor affiliated with the business organization, the business organization shall notify the department of the termination of the qualifying agent and shall have 60 days from the termination of the qualifying agent’s affiliation with the business organization in which to employ another qualifying agent. The business organization may not engage in contracting until a qualifying agent is employed, unless the executive director or chair of the board has granted a temporary nonrenewable certificate or registration to the financially responsible officer, the president, a partner, or, in the case of a limited partnership, the general partner, who assumes all responsibilities of a primary qualifying agent for the entity. This temporary certificate or registration shall only allow the entity to proceed with incomplete contracts as defined in s. 489.121.

(b) The qualifying agent shall inform the department in writing when he or she proposes to engage in contracting in his or her own name or in affiliation with another business organization, and he or she or such new

business organization shall supply the same information to the department as required of applicants under this part.

(5)(a) Each registered or certified contractor shall affix the number of his or her registration or certification to each application for a building permit and on each building permit issued and recorded. Each city or county building department shall require, as a precondition for the issuance of the building permit, that the contractor taking out the permit must provide verification giving his or her Construction Industry Licensing Board registration or certification number.

(6) Each qualifying agent shall pay the department an amount equal to the original fee for certification or registration of a new business organization. If the qualifying agent for a business organization desires to qualify additional business organizations, the board shall require him or her to present evidence of ability and financial responsibility of each such organization. The issuance of such certification or registration is discretionary with the board.

Section 1128. Paragraphs (a), (c), and (f) of subsection (1) and paragraphs (d) and (k) of subsection (5) of section 489.127, Florida Statutes (1996 Supplement), are amended to read:

489.127 Prohibitions; penalties.—

(1) No person shall:

(a) Falsely hold himself or herself or a business organization out as a licensee, certificateholder, or registrant;

(c) Present as his or her own the certificate or registration of another;

(f) Engage in the business or act in the capacity of a contractor or advertise himself or herself or a business organization as available to engage in the business or act in the capacity of a contractor without being duly registered or certified;

For purposes of this subsection, a person or business organization operating on an inactive or suspended certificate or registration, or operating beyond the scope of work or geographical scope of the registration, is not duly certified or registered.

(5) Each county or municipality may, at its option, designate one or more of its code enforcement officers, as defined in chapter 162, to enforce, as set out in this subsection, the provisions of subsection (1) and s. 489.132(1) against persons who engage in activity for which a county or municipal certificate of competency or license or state certification or registration is required.

(d) The act for which the citation is issued shall be ceased upon receipt of the citation; and the person charged with the violation shall elect either to correct the violation and pay the civil penalty in the manner indicated on the citation or, within 10 days of receipt of the citation, exclusive of week-

ends and legal holidays, request an administrative hearing before the enforcement or licensing board or designated special master to appeal the issuance of the citation by the code enforcement officer.

1. Hearings shall be held before an enforcement or licensing board or designated special master as established by s. 162.03(2), and such hearings shall be conducted pursuant to the requirements of ss. 162.07 and 162.08.

2. Failure of a violator to appeal the decision of the code enforcement officer within the time period set forth in this paragraph shall constitute a waiver of the violator's right to an administrative hearing. A waiver of the right to an administrative hearing shall be deemed an admission of the violation, and penalties may be imposed accordingly.

3. If the person issued the citation, or his or her designated representative, shows that the citation is invalid or that the violation has been corrected prior to appearing before the enforcement or licensing board or designated special master, the enforcement or licensing board or designated special master may dismiss the citation unless the violation is irreparable or irreversible.

4. Each day a willful, knowing violation continues shall constitute a separate offense under the provisions of this subsection.

(k) All notices required by this subsection shall be provided to the alleged violator by certified mail, return receipt requested; by hand delivery by the sheriff or other law enforcement officer or code enforcement officer; by leaving the notice at the violator's usual place of residence with some person of his or her family above 15 years of age and informing such person of the contents of the notice; or by including a hearing date within the citation.

Section 1129. Paragraph (f) of subsection (1) and subsection (9) of section 489.129, Florida Statutes (1996 Supplement), are amended to read:

489.129 Disciplinary proceedings.—

(1) The board may take any of the following actions against any certificateholder or registrant: place on probation or reprimand the licensee, revoke, suspend, or deny the issuance or renewal of the certificate or registration, require financial restitution to a consumer for financial harm directly related to a violation of a provision of this part, impose an administrative fine not to exceed \$5,000 per violation, require continuing education, or assess costs associated with investigation and prosecution, if the contractor, financially responsible officer, or business organization for which the contractor is a primary qualifying agent, a financially responsible officer, or a secondary qualifying agent responsible under s. 489.1195 is found guilty of any of the following acts:

(f) Knowingly combining or conspiring with an uncertified or unregistered person by allowing his or her certificate or registration to be used by the uncertified or unregistered person with intent to evade the provisions of this part. When a certificateholder or registrant allows his or her certificate or registration to be used by one or more business organizations without

having any active participation in the operations, management, or control of such business organizations, such act constitutes prima facie evidence of an intent to evade the provisions of this part.

For the purposes of this subsection, construction is considered to be commenced when the contract is executed and the contractor has accepted funds from the customer or lender.

(9) Any person certified or registered pursuant to this part who has had his or her license revoked shall not be eligible to be a partner, officer, director, or trustee of a business organization defined by this section or be employed in a managerial or supervisory capacity for a 5-year period. Such person shall also be ineligible to reapply for certification or registration under this part for a period of 5 years after the effective date of the revocation.

Section 1130. Paragraph (f) of subsection (3) and paragraphs (a) and (b) of subsection (7) of section 489.131, Florida Statutes (1996 Supplement), are amended to read:

489.131 Applicability.—

(3) Nothing in this part limits the power of a municipality or county:

(f) To refuse to issue permits or issue permits with specific conditions to a contractor who has committed multiple violations, when he or she has been disciplined for each of them by the board and when each disciplinary action has involved revocation or suspension of a license, imposition of an administrative fine of at least \$1,000, or probation; or to issue permits with specific conditions to a contractor who, within the previous 12 months, has had disciplinary action other than a citation or letter of guidance taken against him or her by the department or by a local board or agency which licenses contractors and has reported the action pursuant to paragraph (6)(c), for engaging in the business or acting in the capacity of a contractor without a license. However, this subsection does not supersede the provisions of s. 489.113(4), and no county or municipality may require any certificateholder to obtain a local professional license or pay a local professional license fee as a condition of performing any services within the scope of the certificateholder's statewide license as established under this part.

(7)(a) The local governing body of a county or municipality, or its local enforcement body, is authorized to enforce the provisions of this part as well as its local ordinances against locally licensed or registered contractors, as appropriate. The local jurisdiction enforcement body may conduct disciplinary proceedings against a locally licensed or registered contractor and may require restitution, impose a suspension or revocation of his or her local license, or a fine not to exceed \$5,000, or a combination thereof, against the locally licensed or registered contractor, according to ordinances which a local jurisdiction may enact. In addition, the local jurisdiction may assess reasonable investigative and legal costs for the prosecution of the violation against the violator, according to such ordinances as the local jurisdiction may enact.

(b) In addition to any action the local jurisdiction enforcement body may take against the individual's local license, and any fine the local jurisdiction may impose, the local jurisdiction enforcement body shall issue a recommended penalty for board action. This recommended penalty may include a recommendation for no further action, or a recommendation for suspension, revocation, or restriction of the registration, or a fine to be levied by the board, or a combination thereof. The local jurisdiction enforcement body shall inform the disciplined contractor and the complainant of the local license penalty imposed, the board penalty recommended, his or her rights to appeal, and the consequences should he or she decide not to appeal. The local jurisdiction enforcement body shall, upon having reached adjudication or having accepted a plea of nolo contendere, immediately inform the board of its action and the recommended board penalty.

Section 1131. Subsections (2) and (6) of section 489.143, Florida Statutes (1996 Supplement), are amended to read:

489.143 Payment from the fund.—

(2) Upon receipt by a claimant under subsection (1) of payment from the Construction Industries Recovery Fund, the claimant shall assign his or her additional right, title, and interest in the judgment, to the extent of such payment, to the board, and thereupon the board shall be subrogated to the right, title, and interest of the claimant; and any amount subsequently recovered on the judgment by the board, to the extent of the right, title, and interest of the board therein, shall be for the purpose of reimbursing the Construction Industries Recovery Fund.

(6) Upon the payment of any amount from the Construction Industries Recovery Fund in settlement of a claim in satisfaction of a judgment or restitution order against a certificateholder as described in s. 489.141(1), the license of such certificateholder shall be automatically suspended, without further administrative action, upon the date of payment from the fund. The license of such certificateholder shall not be reinstated until he or she has repaid in full, plus interest, the amount paid from the fund. A discharge of bankruptcy does not relieve a person from the penalties and disabilities provided in this section.

Section 1132. Paragraph (a) of subsection (1) and subsections (2), (3), (6), and (9) of section 489.503, Florida Statutes (1996 Supplement), are amended to read:

489.503 Exemptions.—This part does not apply to:

(1) Any employee of a certificateholder, registrant, or business organization authorized to engage in contracting who is acting within the scope of the license held by that certificateholder or registrant and with the knowledge and permission of the licenseholder. However:

(a) If the employer is not a certificateholder or registrant in that type of contracting, and the employee performs any of the following, the employee is not exempt:

1. Holds himself or herself or his or her employer out to be licensed or qualified by a licensee;
2. Leads the consumer to believe that the employee has an ownership or management interest in the company; or
3. Performs any of the acts which constitute contracting.

For the purpose of this part, “employee” is defined as a person who receives compensation from, and is under the supervision and control of, an employer who regularly deducts the F.I.C.A. and withholding tax and provides workers’ compensation, all as prescribed by law.

(2) An authorized employee of the United States, this state, or any municipality, county, irrigation district, reclamation district, or any other municipal or political subdivision of this state, except school boards, the Board of Regents, and community colleges, unless for the purpose of performing routine maintenance or repair or construction not exceeding \$200,000 to existing installations, as long as the employee does not hold himself or herself out for hire or otherwise engage in contracting except in accordance with his or her employment. If the construction, remodeling, or improvement exceeds \$200,000, school boards, the Board of Regents, and community colleges, shall not divide the project into separate components for the purpose of evading this section.

(3) An officer appointed by a court when he or she is acting within the scope of his or her office as defined by law or court order.

(6) An owner of property making application for permit, supervising, and doing the work in connection with the construction, maintenance, repair, and alteration of and addition to a single-family or duplex residence for his or her own use and occupancy and not intended for sale or an owner of property when acting as his or her own electrical contractor and providing all material supervision himself or herself, when building or improving a farm outbuilding or a single-family or duplex residence on such property for the occupancy or use of such owner and not offered for sale or lease, or building or improving a commercial building with aggregate construction costs of under \$25,000 on such property for the occupancy or use of such owner and not offered for sale or lease. In an action brought under this subsection, proof of the sale or lease, or offering for sale or lease, of more than one such structure by the owner-builder within 1 year after completion of same is prima facie evidence that the construction was undertaken for purposes of sale or lease. This subsection does not exempt any person who is employed by such owner and who acts in the capacity of a contractor. For the purpose of this subsection, the term “owner of property” includes the owner of a mobile home situated on a leased lot. To qualify for exemption under this subsection, an owner shall personally appear and sign the building permit application. The local permitting agency shall provide the owner with a disclosure statement in substantially the following form:

Disclosure Statement

State law requires electrical contracting to be done by licensed electrical contractors. You have applied for a permit under an exemption to that law. The exemption allows you, as the owner of your property, to act as your own electrical contractor even though you do not have a license. You may install electrical wiring for a farm outbuilding or a single-family or duplex residence. You may install electrical wiring in a commercial building the aggregate construction costs of which are under \$25,000. The home or building must be for your own use and occupancy. It may not be built for sale or lease. If you sell or lease more than one building you have wired yourself within 1 year after the construction is complete, the law will presume that you built it for sale or lease, which is a violation of this exemption. You may not hire an unlicensed person as your electrical contractor. Your construction shall be done according to building codes and zoning regulations. It is your responsibility to make sure that people employed by you have licenses required by state law and by county or municipal licensing ordinances.

(9) A registered architect or engineer acting within the scope of his or her practice, or any person exempted by the law regulating architects or engineers, including persons doing design work as specified in s. 481.229(1)(b).

Section 1133. Subsections (14), (15), (16), (21), (22), and (23) of section 489.505, Florida Statutes (1996 Supplement), are amended to read:

489.505 Definitions.—As used in this part:

(14) “Primary qualifying agent” means a person who possesses the requisite skill, knowledge, and experience, and has the responsibility, to supervise, direct, manage, and control the electrical or alarm system contracting activities of the business organization with which he or she is connected; and whose technical and personal qualifications have been determined by investigation and examination as provided in this part by the department, as attested to by the board; and who has been issued a certificate of competency by the department.

(15) “Secondary qualifying agent” means a person who possesses the requisite skill, knowledge, and experience, and has the responsibility to supervise, direct, manage, and control the electrical or alarm system contracting activities on a job for which he or she has obtained a permit; and whose technical and personal qualifications have been determined by investigation and examination as provided in this part by the department, as attested to by the board; and who has been issued a certificate of competency by the department.

(16) “Registered electrical contractor” means an electrical contractor who has registered with the department pursuant to fulfilling the competency requirements in the jurisdiction for which the registration is issued. A registered electrical contractor may contract only in the jurisdiction for which his or her registration is issued.

(21) “Registered alarm system contractor I” means an alarm system contractor whose business includes all types of alarm systems for all purposes

and who is registered with the department pursuant to s. 489.513 or s. 489.537(8). A registered alarm system contractor I may contract only in the jurisdictions for which his or her registration is issued.

(22) "Registered alarm system contractor II" means an alarm system contractor whose business includes all types of alarm systems, other than fire, for all purposes and who is registered with the department pursuant to s. 489.513 or s. 489.537(8). A registered alarm system contractor II may contract only in the jurisdiction for which his or her registration is issued.

(23) "Registered residential alarm system contractor" means an alarm system contractor whose business is limited to burglar alarm systems in single-family residential, quadruplex housing, and mobile homes and to fire alarm systems of a residential occupancy class and who is registered with the department pursuant to s. 489.513 or s. 489.537(8). The board shall define "residential occupancy class" by rule. A registered residential alarm system contractor may contract only in the jurisdiction for which his or her registration is issued.

Section 1134. Paragraph (k) of subsection (1) and paragraph (b) of subsection (7) of section 489.533, Florida Statutes (1996 Supplement), are amended to read:

489.533 Disciplinary proceedings.—

(1) The following acts shall constitute grounds for disciplinary actions as provided in subsection (2):

(k) Knowingly combining or conspiring with any person by allowing one's certificate to be used by any uncertified person with intent to evade the provisions of this part. When a certificateholder allows his or her certificate to be used by one or more companies without having any active participation in the operations or management of said companies, such act constitutes prima facie evidence of an intent to evade the provisions of this part.

For the purposes of this subsection, construction is considered to be commenced when the contract is executed and the contractor has accepted funds from the customer or lender.

(7)

(b) No licensee may avail himself or herself of the mediation process more than three times without the approval of the board. The board may consider the subject and the dates of the earlier complaints in rendering its decision. The board's decision shall not be considered a final agency action and is not appealable.

Section 1135. Paragraphs (c), (g), and (p) of subsection (2) of section 490.009, Florida Statutes (1996 Supplement), are amended to read:

490.009 Discipline.—

(2) The following acts of a licensee or applicant are grounds for which the disciplinary actions listed in subsection (1) may be taken:

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of his or her profession or the ability to practice his or her profession. A plea of *nolo contendere* creates a rebuttable presumption of guilt of the underlying criminal charges. However, the board shall allow the person who is the subject of the disciplinary proceeding to present any evidence relevant to the underlying charges and circumstances surrounding the plea.

(g) Knowingly aiding, assisting, procuring, or advising any nonlicensed person to hold himself or herself out as licensed under this chapter.

(p) Being unable to practice the profession for which he or she is licensed under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness; drunkenness; or excessive use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the secretary, the secretary's his designee, or the board that probable cause exists to believe that the licensee is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee to submit to a mental or physical examination by psychologists or physicians designated by the department or board. If the licensee refuses to comply with the department's order, the department may file a petition for enforcement in the circuit court of the circuit in which the licensee resides or does business. The licensee shall not be named or identified by initials in the petition or in any other public court records or documents, and the enforcement proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall be afforded an opportunity at reasonable intervals to demonstrate that he or she can resume the competent practice for which he or she is licensed with reasonable skill and safety to patients.

Section 1136. Paragraphs (c), (g), and (p) of subsection (2) of section 491.009, Florida Statutes (1996 Supplement), are amended to read:

491.009 Discipline.—

(2) The following acts of a licensee, certificateholder, or applicant are grounds for which the disciplinary actions listed in subsection (1) may be taken:

(c) Being convicted or found guilty of, regardless of adjudication, or having entered a plea of *nolo contendere* to, a crime in any jurisdiction which directly relates to the practice of his or her profession or the ability to practice his or her profession. However, in the case of a plea of *nolo contendere*, the board shall allow the person who is the subject of the disciplinary proceeding to present evidence in mitigation relevant to the underlying charges and circumstances surrounding the plea.

(g) Knowingly aiding, assisting, procuring, or advising any nonlicensed or noncertified person to hold himself or herself out as licensed or certified under this chapter.

(p) Being unable to practice the profession for which he or she is licensed or certified under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness; drunkenness; or excessive use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the secretary, the secretary's his designee, or the board that probable cause exists to believe that the licensee or certificateholder is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee or certificateholder to submit to a mental or physical examination by psychologists, physicians, or other licensees under this chapter, designated by the department or board. If the licensee or certificateholder refuses to comply with such order, the department's order directing the examination may be enforced by filing a petition for enforcement in the circuit court in the circuit in which the licensee or certificateholder resides or does business. The licensee or certificateholder against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice for which he or she is licensed or certified with reasonable skill and safety to patients.

Section 1137. Subsections (4), (11), and (13) of section 493.6101, Florida Statutes (1996 Supplement), are amended to read:

493.6101 Definitions.—

(4) The personal pronoun “he” or the personal pronoun “she” implies the impersonal pronoun “it.”

(11) “Sponsor” means any Class “C,” Class “MA,” or Class “M” licensee who supervises and maintains under his or her direction and control a Class “CC” intern; or any Class “E” or Class “MR” licensee who supervises and maintains under his or her direction and control a Class “EE” intern.

(13) “Manager” means any licensee who directs the activities of licensees at any agency or branch office. The manager shall be assigned to and shall primarily operate from the agency or branch office location for which he or she has been designated as manager.

Section 1138. Subsections (1), (2), (3), (4), (6), and (13) of section 493.6102, Florida Statutes (1996 Supplement), are amended to read:

493.6102 Inapplicability of parts I through IV of this chapter.—This chapter shall not apply to:

(1) Any individual who is an “officer” as defined in s. 943.10(14) or is a law enforcement officer of the United States Government, while such local, state, or federal officer is engaged in her or his official duties or when performing off-duty activities, not including repossession services, approved by her or his superiors.

(2) Any insurance investigator or adjuster licensed by a state or federal licensing authority when such person is providing services or expert advice within the scope of her or his license.

(3) Any individual solely, exclusively, and regularly employed as an unarmed investigator or recovery agent in connection with the business of her or his employer, when there exists an employer-employee relationship.

(4) Any unarmed individual engaged in security services who is employed exclusively to work on the premises of her or his employer, or in connection with the business of her or his employer, when there exists an employer-employee relationship.

(6) Any attorney in the regular practice of her or his profession.

(13) Any individual employed as a security officer by a religious institution as defined in s. 199.183(2)(a) to provide security on the institution property, and who does not carry a firearm in the course of her or his duties.

Section 1139. Subsection (4) and paragraph (c) of subsection (8) of section 493.6121, Florida Statutes (1996 Supplement), are amended to read:

493.6121 Enforcement; investigation.—

(4) In the exercise of its enforcement responsibility and in the conduct of any investigation authorized by this chapter, the department shall have the power to subpoena and bring before it any person in the state, require the production of any papers it deems necessary, administer oaths, and take depositions of any persons so subpoenaed. Failure or refusal of any person properly subpoenaed to be examined or to answer any question about her or his qualifications or the business methods or business practices under investigation or to refuse access to agency records in accordance with s. 493.6119 shall be grounds for revocation, suspension, or other disciplinary action. The testimony of witnesses in any such proceeding shall be under oath before the department or its agents.

(8) Any investigation conducted by the department pursuant to this chapter is exempt from s. 119.07(1) until:

(c) The subject of the investigation waives her or his privilege of confidentiality.

Section 1140. Subsection (2) of section 494.00125, Florida Statutes (1996 Supplement), is amended to read:

494.00125 Confidentiality of information relating to investigations and examinations.—

(2) If information subject to subsection (1) is offered in evidence in any administrative, civil, or criminal proceeding, the presiding officer may, in her or his discretion, prevent the disclosure of information which would be confidential pursuant to paragraph (1)(b).

Section 1141. Subsection (2) of section 497.002, Florida Statutes (1996 Supplement), is amended to read:

497.002 Purpose and intent.—

(2) Subject to certain interests of society, the Legislature finds that every competent adult has the right to control the decisions relating to her or his own funeral arrangements. Accordingly, unless otherwise stated herein, it is the Legislature's express intent that nothing contained in this chapter should be construed or interpreted in any manner as to subject preneed contract purchasers to federal income taxation under the grantor trust rules contained in ss. 671 et seq. of the Internal Revenue Code of 1986, as amended.

Section 1142. Subsections (17) and (24) of section 497.005, Florida Statutes (1996 Supplement), are amended to read:

497.005 Definitions.—As used in this chapter:

(17) "At-need solicitation" means any uninvited contact by a licensee or her or his agent for the purpose of the sale of burial services or merchandise to the family or next of kin of a person after her or his death has occurred.

(24) "Net assets" means the amount by which the total assets of a certificateholder, excluding goodwill, franchises, customer lists, patents, trademarks, and receivables from or advances to officers, directors, employees, salespersons ~~salesmen~~, and affiliated companies, exceed total liabilities of the certificateholder. For purposes of this definition, the term "total liabilities" does not include the capital stock, paid-in capital, or retained earnings of the certificateholder.

Section 1143. Subsection (1) of section 497.101, Florida Statutes (1996 Supplement), is amended to read:

497.101 Board of Funeral and Cemetery Services; membership; appointment; terms.—

(1) The Board of Funeral and Cemetery Services is created within the Department of Banking and Finance and shall consist of seven members appointed by the Governor, from nominations made by the Comptroller, and confirmed by the Senate. The Comptroller shall nominate three persons for each vacancy on the board, and the Governor shall fill each vacancy on the board by appointing one of the three persons nominated by the Comptroller to fill that vacancy. If the Governor objects to each of the three nominations for a vacancy, she or he shall inform the Comptroller in writing. Upon notification of an objection by the Governor, the Comptroller shall submit three additional nominations for that vacancy until the vacancy is filled.

Section 1144. Subsection (3) of section 497.127, Florida Statutes (1996 Supplement), is amended to read:

497.127 Injunction to restrain violations.—

(3) In addition to all other means provided by law for the enforcement of any temporary restraining order, temporary injunction, or permanent injunction issued in any such court proceeding, the court has the power and jurisdiction, upon application of the board or the department, to impound, and to appoint a receiver or administrator for, the property, assets, and business of the defendant, including, but not limited to, the books, records, documents, and papers appertaining thereto. Such receiver or administrator, when appointed and qualified, has all powers and duties as to custody, collection, administration, winding up, and liquidation of the property and business as are from time to time conferred upon him or her by the court. In any such action, the court may issue an order staying all pending suits and enjoining any further suits affecting the receiver's or administrator's custody or possession of the property, assets, and business, or the court, in its discretion and with the consent of the chief judge of the circuit, may require that all such suits be assigned to the circuit court judge who appoints the receiver or administrator.

Section 1145. Subsections (1) and (8) of section 497.131, Florida Statutes (1996 Supplement), are amended to read:

497.131 Disciplinary proceedings.—

(1) The department shall cause to be investigated any complaint which is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint is legally sufficient if it contains ultimate facts which show that a violation of this chapter, or of any rule promulgated by the department or board has occurred. In order to determine legal sufficiency, the department may require supporting information or documentation. The department may investigate or continue to investigate, and the department and the board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates her or his desire not to cause the complaint to be investigated or prosecuted to completion. The department may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department has reason to believe, after preliminary inquiry, that the alleged violations in the complaint are true. The department may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. The department may initiate an investigation if it has reasonable cause to believe that a person has violated a state statute, a rule of the department, or a rule of the board. When an investigation of any person is undertaken, the department shall promptly furnish to the person or her or his attorney a copy of the complaint or document which resulted in the initiation of the investigation. The person may submit a written response to the information contained in such complaint or document within 20 days after service to the person of the complaint or document. The person's written response shall be considered by the probable cause panel. This right to respond shall not prohibit the department from issuing a summary emergency order if necessary to protect the public. However, if the Comptroller or her or his designee and the chair chairman of the board or the chair chairman of its probable

cause panel agree in writing that such notification would be detrimental to the investigation, the department may withhold notification. The department may conduct an investigation without notification to any person if the act under investigation is a criminal offense.

(8) Any proceeding for the purpose of summary suspension of a license, or for the restriction of a license, of a licensee pursuant to s. 120.60(6) shall be conducted by the Comptroller or her or his designee, who shall issue the final summary order.

Section 1146. Paragraph (r) of subsection (1) of section 497.233, Florida Statutes (1996 Supplement), is amended to read:

497.233 Disciplinary proceedings.—

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

(r) Failing to furnish, for retention, to each purchaser of burial rights, burial or funeral merchandise, or burial or funeral services a written agreement, the form of which has been previously approved by the board, which lists the items and services purchased together with the prices for the items and services purchased; the name, address, and telephone number of the licensee; the signatures of the customer and the licensee or her or his representative; and the date signed.

Section 1147. Subsection (1), paragraph (c) of subsection (2), and subsections (3) and (7) of section 497.407, Florida Statutes (1996 Supplement), are amended to read:

497.407 Certificate of authority; annual statement; renewal; transfer.—

(1) An application to the board for a certificate of authority shall be accompanied by the statement and other matters described in this section in the form prescribed by the board. Annually thereafter, within 3 months after the end of its fiscal period, or within an extension of time therefor, as the board for good cause may grant, the person authorized to engage in the sale of preneed contracts shall file with the department a full and true statement of her or his financial condition, transactions, and affairs, prepared on a basis as adopted by rule of the board, as of the preceding fiscal period or at such other time or times as the board may provide by rule, together with information and data which may be required by the board.

(2) The statement shall include the following:

(c) Evidence that the person offering the statement:

1. Has the ability to discharge her or his liabilities as they become due in the normal course of business and has sufficient funds available during the calendar year to perform her or his obligations under her or his contract;

2. Has complied with the trust requirements for the funds received under contracts issued by herself or himself as hereinafter described;

3. Has disbursed interest, dividends, or accretions earned by trust funds, in accordance with this chapter and rules promulgated thereunder; and

4. Has complied with this chapter and any rules of the board and the department.

(3) If the person is an individual, the statement shall be sworn by her or him; if a firm or association, by all members thereof; or, if a corporation, by any officer of the corporation.

(7) An application for an initial certificate of authority or for the annual renewal of the certificate shall disclose the existence of all preneed contracts for service or merchandise funded by any method other than a method permitted by this chapter, which contracts are known to the applicant and name the applicant or her or his business as the beneficiary upon the death of the purchaser of the preneed contract. Such disclosure shall include the name and address of the contract purchaser, the name and address of the institution where such funds are deposited, and the number used by the institution to identify the account. With respect to contracts entered into before January 1, 1983, the board may not deny or refuse to renew a certificate of authority solely on the basis of such disclosure. The board may not require the purchaser of any such contract to liquidate the account if such account was established before July 1, 1965. The board may use the information disclosed to notify the contract purchaser and the institution in which such funds are deposited should the holder of a certificate of authority be unable to fulfill the requirements of the contract.

Section 1148. Subsection (9) of section 497.413, Florida Statutes (1996 Supplement), is amended to read:

497.413 Preneed Funeral Contract Consumer Protection Trust Fund.—

(9) If restitution is paid to a preneed contract purchaser or her or his estate in accordance with this section, the amount of restitution paid shall not exceed the gross amount of the principal payments made by the purchaser on its contract.

Section 1149. Subsections (1), (3), and (5) of section 497.417, Florida Statutes (1996 Supplement), are amended to read:

497.417 Disposition of proceeds received on contracts.—

(1) Any person who is paid, collects, or receives funds under a preneed contract for funeral services or merchandise or burial services or merchandise shall deposit in this state an amount at least equal to the sum of 70 percent of the purchase price collected for all services sold and facilities rented; 100 percent of the purchase price collected for all cash advance items sold; and 30 percent of the purchase price collected or 110 percent of the wholesale cost, whichever is greater, for each item of merchandise sold. The method of determining wholesale cost shall be established by rule of the board and shall be based upon the certificateholder's stated wholesale cost for the 12-month period beginning July 1 during which the initial deposit to the preneed trust fund for the preneed contract is made. Such deposits

shall be made within 30 days after the end of the calendar month in which payment is received, under the terms of a revocable trust instrument entered into with a national or state bank or savings and loan association having trust powers or a trust company. The trustee shall take title to the property conveyed to the trust for the purpose of investing, protecting, and conserving it for the certificateholder; collecting income; and distributing the principal and income as prescribed in this chapter. The certificateholder is prohibited from sharing in the discharge of these responsibilities, except that the certificateholder may request the trustee to invest in tax-free investments and may appoint an adviser to the trustee. The trust agreement shall be submitted to the board for approval and filing. The funds shall be held in trust, both as to principal and income earned thereon, and shall remain intact, except that the cost of the operation of the trust or trust account authorized by this section may be deducted from the income earned thereon. The contract purchaser shall have no interest whatsoever in, or power whatsoever over, funds deposited in trust pursuant to this section. In no event may said funds be loaned to a certificateholder, an affiliate of a certificateholder, or any person directly or indirectly engaged in the burial, funeral home, or cemetery business. Furthermore, the certificateholder's interest in said trust shall not be pledged as collateral for any loans, debts, or liabilities of the certificateholder and shall not be transferred to any person without the prior written approval from the department and the trustee which shall not be unreasonably withheld. Even though the certificateholder shall be deemed and treated as the settlor and beneficiary of said trust for all purposes, all of said trust funds are exempt from all claims of creditors of the certificateholder except as to the claims of the contract purchaser, her or his representative, the board, or the department.

(3) The trustee shall make regular valuations of assets it holds in trust and provide a report of such valuations to the certificateholder at least quarterly. Any person who withdraws appreciation in the value of trust, other than the pro rata portion of such appreciation which may be withdrawn upon the death of a contract beneficiary or upon cancellation of a preneed contract, shall be required to make additional deposits from her or his own funds to restore the aggregate value of assets to the value of funds deposited in trust, but excluding from the funds deposited those funds paid out upon preneed contracts which such person has fully performed or which have been otherwise withdrawn, as provided for in this chapter. The certificateholder shall be liable to third parties to the extent that income from the trust is not sufficient to pay the expenses of the trust.

(5) The certificateholder, at her or his election, shall have the right and power, at any time, to revest in it title to the trust assets, or its pro rata share thereof, provided it has complied with s. 497.423 or s. 497.425. Notwithstanding anything contained in this chapter to the contrary, the certificateholder, via its election to sell or offer for sale preneed contracts subject to this section, shall represent and warrant, and is hereby deemed to have done such, to all federal and Florida taxing authorities, as well as to all potential and actual preneed contract purchasers, that s. 497.423 or s. 497.425 is a viable option available to it at any and all relevant times. If in the certificateholder's opinion it does not have the ability to select the finan-

cial responsibility alternative of s. 497.423 or s. 497.425, then it shall not have the right to sell or solicit contracts pursuant to this section.

Section 1150. Subsection (7) of section 497.419, Florida Statutes (1996 Supplement), is amended to read:

497.419 Cancellation of, or default on, preneed contracts.—

(7) All preneed contracts are cancelable and revocable as provided in this section, provided that a preneed contract does not restrict any contract purchaser who is a qualified applicant for, or a recipient of, supplemental security income, temporary assistance under the WAGES Program, or Medicaid from making her or his contract irrevocable.

Section 1151. Subsections (7) and (9) of section 497.429, Florida Statutes (1996 Supplement), are amended to read:

497.429 Alternative preneed contracts.—

(7) Disbursement of funds discharging any preneed contract shall be made by the trustee to the person issuing or writing such contract upon receipt of a certified copy of the death certificate of the contract beneficiary and evidence satisfactory to the trustee that the preneed contract has been fully performed. In the event of any contract default by the contract purchaser, or in the event that the funeral merchandise or service contracted for is not provided or is not desired by the purchaser or the heirs or personal representative of the contract beneficiary, the trustee shall return, within 30 days after its receipt of a written request therefor, funds paid on the contract to the contract purchaser or to her or his assigns, heirs, or personal representative, subject to the lawful liquidation damage provision in the contract.

(9) The contract may provide that the certificateholder may cancel the contract, but only in the event that the purchaser is more than 90 days in default of the terms of the contract; and, unless subject to the provisions of s. 497.419(6), must provide that the purchaser, or her or his representative, has the right, at any time prior to the performance of the contract, to cancel the preneed contract and revest title to all the funds paid on the preneed contract, except for applicable liquidated damages, and the certificateholder's rights in the net income of the trust.

Section 1152. Subsection (3) of section 497.447, Florida Statutes (1996 Supplement), is amended to read:

497.447 Prohibited practices; hearings, witnesses, appearances, production of books, and service of process.—

(3) A statement of charges, notice, or order or other process under this chapter may be served by anyone duly authorized by the department, either in the manner provided by law for service of process in civil actions or by certifying and mailing a copy thereof to the person affected by such statement, notice, or order or other process at her or his or its residence or principal office or place of business. The verified return by the person so

serving such statement, notice, or order or other process, setting forth the manner of the service, shall be proof of the service; and the return postcard receipt for such statement, notice, or order or other process, certified and mailed as provided in this subsection, shall be proof of service of the statement, notice, or order or other process.

Section 1153. Paragraph (a) of subsection (1) and subsection (4) of section 498.025, Florida Statutes (1996 Supplement), are amended to read:

498.025 Exemptions.—

(1) Except as provided in s. 498.022, the provisions of this chapter do not apply to:

(a) An offer or disposition of any interest in subdivided lands by a purchaser for his or her own account in a single or isolated transaction, except that this exemption shall not apply to registrants.

(4) The division may also grant additional exemptions from the registration and reporting provisions of this chapter if the subdivider demonstrates to the division's satisfaction that he or she has qualified for an order of exemption in those cases involving offers or dispositions of interests in subdivided lands where:

(a) The contract for purchase contains, and the subdivider complies with, the following provisions:

1. The purchaser must inspect the subdivided land prior to the execution of the contract.

2. The purchaser shall have an absolute right to cancel the contract for any reason whatsoever for a period of 7 business days following the date on which the contract was executed by the purchaser.

3. In the event the purchaser elects to cancel within the period provided, all funds or other property paid by the purchaser shall be refunded without penalty or obligation within 20 days of the receipt of the notice of cancellation by the developer.

4. All funds or property paid by the purchaser shall be escrowed until closing has occurred and the deed has been recorded.

5. Unless otherwise timely canceled, closing shall occur and the deed shall be recorded within 180 days of the date of execution of the contract by the purchaser.

6. Title shall be conveyed by statutory warranty deed unencumbered by any lien or mortgage except for any first purchase money mortgage given by the purchaser and restrictions, covenants, or easements of record.

(b) The subdivider has completed all improvements promised;

(c) The land is useful for the purpose for which it is offered;

(d) The purchaser has personally inspected the property prior to the execution of the purchase contract and has so certified in writing; and

(e) Each lot, parcel, or unit is accessible by a street or road that is constructed to the specifications of the appropriate local governing body or, if the local governing body does not have specifications, the street or road shall be constructed in accordance with applicable standards from the Department of Transportation, and provisions acceptable to the division have been made for their perpetual maintenance.

Section 1154. Subsection (3) and paragraph (a) of subsection (4) of section 498.029, Florida Statutes (1996 Supplement), are amended to read:

498.029 Notice of filing and registration.—

(3) If the division disapproves the application, it shall enter an order disapproving the registration which shall include the findings of fact upon which the order is based and shall state with particularity the grounds for disapproval. If no hearing has been held, the division shall inform the applicant of his or her right to a hearing under ss. 120.569 and 120.57.

(4) Notwithstanding the provisions of ss. 498.027(2) and 498.033(3), the division shall enter an order registering subdivided lands which are otherwise qualified for registration pursuant to this chapter if:

(a) The applicant submits evidence that he or she has applied for the permits required by chapters 253, 373, 380, and 403 and the certificates required by the Federal Water Pollution Control Act, Pub. L. No. 92-500; and

Any subdivider who obtains an order of registration under this subsection shall show in its public offering statement, in a manner prescribed by the division, that it has not received the necessary permit, certificate, or other authorization which must be granted prior to the construction of a specified improvement.

Section 1155. Paragraphs (o) and (p) of subsection (1) of section 499.018, Florida Statutes (1996 Supplement), are amended to read:

499.018 Applications for approval of investigational drugs.—

(1) A person that applies for use of an investigational drug that does not have a Notice of Claimed Investigational Exemption for a New Drug on file with the federal Food and Drug Administration or that is otherwise unlawful in interstate commerce must, in accordance with ss. 499.001-499.081, submit in writing to the department for review by the technical panel the following, if applicable:

(o) A report of the scientific training and experience considered appropriate by the applicant to qualify himself or herself or the subcontractor as a suitable expert to investigate the safety and use of the drug. The report must include the names and addresses of all subcontractors.

(p) A list of the names and a summary of the training and experience of each investigator and of the individual in charge of the use of the drug, and

a statement from the applicant that he or she has obtained from each subcontractor a completed and signed form and a statement that the subcontractor is qualified by scientific training and experience as an appropriate expert.

All information contained in the application for approval of an investigational drug is confidential and exempt from the provisions of s. 119.07(1).

Section 1156. Paragraph (d) of subsection (1) of section 501.017, Florida Statutes (1996 Supplement), is amended to read:

501.017 Health studios; contracts.—

(1) Every contract for the sale of future health studio services which is paid for in advance or which the buyer agrees to pay for in future installment payments shall be in writing and shall contain, contractual provisions to the contrary notwithstanding, in immediate proximity to the space reserved in the contract for the signature of the buyer, and in 10-point boldfaced type, language substantially equivalent to the following:

(d) A provision for the cancellation of the contract if the buyer dies or becomes physically unable to avail himself or herself of a substantial portion of those services which he or she used from the commencement of the contract until the time of disability, with refund of funds paid or accepted in payment of the contract in an amount computed by dividing the contract price by the number of weeks in the contract term and multiplying the result by the number of weeks remaining in the contract term. The contract may require a buyer or the buyer's estate seeking relief under this paragraph to provide proof of disability or death. A physical disability sufficient to warrant cancellation of the contract by the buyer shall be established if the buyer furnishes to the health studio a certification of such disability by a physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461 to the extent the diagnosis or treatment of the disability is within the physician's scope of practice.

Section 1157. Subsections (4) and (7) of section 501.075, Florida Statutes (1996 Supplement), are amended to read:

501.075 Hazardous Substances Law; prohibited acts.—The following acts and the causing thereof are prohibited:

(4) The giving of a guarantee or undertaking referred to in s. 501.081(2)(b) which guarantee or undertaking is false, except by a person who relied upon a guarantee or undertaking to the same effect signed by and containing the name and address of the person residing in the United States from whom he or she received in good faith the hazardous substance.

(7) The use by any person to his or her own advantage, or revealing, other than to the department or employees of the department, or to the courts when relevant in any judicial proceeding under ss. 501.061-501.121, of any information acquired under authority of s. 501.105 concerning any method of process which is a trade secret as defined in s. 688.002. Any trade secret

obtained as a result of carrying out the provisions of s. 501.105 is confidential and exempt from the provisions of s. 119.07(1).

Section 1158. Subsection (5) and paragraph (d) of subsection (7) of section 501.1375, Florida Statutes (1996 Supplement), are amended to read:

501.1375 Deposits received for purchase of residential dwelling units; placement in escrow; waiver; exceptions.—

(5) MASTER SURETY BOND.—In lieu of and as an alternative to the requirements of subsection (4), a blanket or master surety bond issued by a company licensed to do business in this state may be acquired by the builder or developer, in an amount equal to or greater than the total amount of escrow deposits withdrawn by the builder or developer pursuant to this section. The buyer shall be debited at closing in an amount equal to the premium for the applicable portion of the bond securing his or her deposit. The master surety bond amount and the pro rata share of bond premium debited against the buyer may be based on a reasonable projection of annual escrowed deposit amounts which will be withdrawn pursuant to this section. Bond rates charged under this subsection shall be subject to the provisions of part I of chapter 627 of the Florida Insurance Code.

(7) RELEASE OF DEPOSIT MONEYS.—Funds in an escrow account established pursuant to this section shall be released without the signature of both the building contractor or developer and the buyer only under the following conditions:

(d) If the buyer defaults in the performance of his or her obligations under the contract of purchase and sale, the funds shall be paid to the building contractor or developer together with any interest earned, in the following manner: The builder or developer may, upon default of the buyer to comply with the terms and conditions of the written contract between the parties, and if the builder or developer is not in default, withdraw any funds being held in escrow pursuant to said written agreement. In order to make such withdrawal, the builder or developer shall send written notice by certified mail to the buyer of his or her intention to make said withdrawals at least 72 hours prior to the intended time of withdrawal. After this 72-hour period, the builder or developer, upon presentation to the escrow holder of a withdrawal slip and the passbook, if any, together with an affidavit certifying that the buyer is in default and that the builder or developer is not in default, may withdraw the escrowed funds. The escrow holder, upon receipt of these items, shall release the funds to the builder or developer. The escrow holder shall not be liable for the release of the funds pursuant to this subsection.

Section 1159. Subsection (2) of section 501.603, Florida Statutes (1996 Supplement), is amended to read:

501.603 Definitions.—As used in this part, unless the context otherwise requires, the term:

(2) “Commercial telephone seller” means any person who engages in commercial telephone solicitation on his or her own behalf or through sales-

persons, except that a commercial telephone seller does not include any of the persons or entities exempted from this part by s. 501.604. A commercial telephone seller does not include a salesperson as defined in subsection (10). A commercial telephone seller includes, but is not limited to, owners, operators, officers, directors, partners, or other individuals engaged in the management activities of a business entity pursuant to this part.

Section 1160. Subsections (8) and (26) of section 501.604, Florida Statutes (1996 Supplement), are amended to read:

501.604 Exemptions.—The provisions of this part, except s. 501.608, do not apply to:

(8) Any licensed insurance broker, agent, customer representative, or solicitor when soliciting within the scope of his or her license. As used in this section, “licensed insurance broker, agent, customer representative, or solicitor” means any insurance broker, agent, customer representative, or solicitor licensed by an official or agency of this state or of any state of the United States.

(26) A publisher, or an agent of a publisher by written agreement, who solicits the sale of his or her periodical or magazine of general, paid circulation. The term “paid circulation” shall not include magazines that are only circulated as part of a membership package or that are given as a free gift or prize from the publisher or agent of the publisher by written agreement.

Section 1161. Paragraphs (a) and (h) of subsection (2) of section 501.605, Florida Statutes (1996 Supplement), are amended to read:

501.605 Licensure of commercial telephone sellers.—

(2) An applicant for a license as a commercial telephone seller must submit to the department, in such form as it prescribes, a written application for the license. The application must set forth the following information:

(a) The true name, date of birth, driver’s license number, social security number, and home address of the applicant, including each name under which he or she intends to do business.

(h) Whether the applicant has had entered against him or her an injunction, a temporary restraining order, or a final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar document, in any civil or administrative action involving racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property or the use of any untrue, deceptive, or misleading representation or the use of any unfair, unlawful, or deceptive trade practice; and whether or not there is any litigation pending against the applicant.

The application shall be accompanied by a copy of any: Script, outline, or presentation the applicant will require or suggest a salesperson to use when soliciting, or, if no such document is used, a statement to that effect; sales information or literature to be provided by the applicant to a salesperson;

and sales information or literature to be provided by the applicant to a purchaser in connection with any solicitation.

Section 1162. Subsections (2) and (3) of section 501.608, Florida Statutes (1996 Supplement), are amended to read:

501.608 License or affidavit of exemption; occupational license.—

(2) Each licensee or person claiming an exemption shall prominently display his or her license or a copy of his or her affidavit of exemption at each location where he or she does business. Each licensee or person claiming an exemption shall make the license or the copy of the affidavit of exemption available for inspection by any governmental agency upon request.

(3) Failure to display a license or a copy of the affidavit of exemption is sufficient grounds for the department to issue an immediate cease and desist order, which shall act as an immediate final order under s. 120.569(2)(l). The order may shall remain in effect until the commercial telephone seller or a person claiming to be exempt shows the authorities that he or she is licensed or exempt. The department may order the business to cease operations and shall order the phones to be shut off. Failure of a salesperson to display a license may result in the salesperson being summarily ordered by the department to leave the office until he or she can produce a license for the department.

Section 1163. Paragraph (b) of subsection (1) and subsection (2) of section 501.612, Florida Statutes (1996 Supplement), are amended to read:

501.612 Grounds for denial of licensure.—

(1) The department may deny licensure to any applicant who:

(b) Has had entered against him or her or any business for which he or she has worked or been affiliated, an injunction, a temporary restraining order, or a final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar document, in any civil or administrative action involving racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property or the use of any untrue or misleading representation in an attempt to sell or dispose of real or personal property or the use of any unfair, unlawful, or deceptive trade practice;

(2) An applicant may appeal the denial or nonrenewal of a license by requesting in writing, within 30 days of receipt of the notice of denial or nonrenewal, a hearing. Said hearing shall be conducted in accordance with the provisions of chapter 120 and presided over by a hearing officer designated by the Department of Agriculture and Consumer Services. When any hearing officer conducts a hearing pursuant to the provisions of chapter 120 with respect to the issuance of a license by the Department of Agriculture and Consumer Services, the hearing officer shall submit his or her recommendation order to the Department of Agriculture and Consumer Services, which shall thereupon issue a final order of the Department of Agriculture and Consumer Services in accordance with the provisions of chapter 120.

Section 1164. Paragraph (b) of subsection (2) of section 501.93, Florida Statutes (1996 Supplement), is amended to read:

501.93 Copyright owners and performing rights societies.—

(2) PROHIBITED ACTIVITIES.—

(b) A performing rights society, or any agent or employee of a society, may not:

1. Enter onto the premises of a proprietor's business for the purpose of discussing or inquiring about a contract for the payment of royalties with the proprietor or the proprietor's employees, without first identifying himself or herself to the proprietor or the proprietor's employees and making known to them the purpose of the discussion or inquiry;

2. Collect or attempt to collect a royalty payment or any other fee except as provided in a contract executed in accordance with this section; or

3. Use or attempt to use any unfair trade practice in negotiating with a proprietor, or in retaliation for a proprietor's failure or refusal to negotiate, with respect to a contract for the payment of royalties.

Section 1165. Subsection (4) of section 509.032, Florida Statutes (1996 Supplement), is amended to read:

509.032 Duties.—

(4) STOP-SALE ORDERS.—The division may stop the sale, and supervise the proper destruction, of any food or food product when the director or the director's ~~his~~ designee determines that such food or food product represents a threat to the public safety or welfare. If the operator of a public food service establishment licensed under this chapter has received official notification from a health authority that a food or food product from that establishment has potentially contributed to any instance or outbreak of food-borne illness, the food or food product must be maintained in safe storage in the establishment until the responsible health authority has examined, sampled, seized, or requested destruction of the food or food product.

Section 1166. Subsection (3) and paragraphs (a) and (b) of subsection (11) of section 517.061, Florida Statutes (1996 Supplement), are amended to read:

517.061 Exempt transactions.—The exemption for each transaction listed below is self-executing and does not require any filing with the department prior to claiming such exemption. Any person who claims entitlement to any of the exemptions bears the burden of proving such entitlement in any proceeding brought under this chapter. The registration provisions of s. 517.07 do not apply to any of the following transactions; however, such transactions are subject to the provisions of ss. 517.301, 517.311, and 517.312:

(3) The isolated sale or offer for sale of securities when made by or on behalf of a vendor not the issuer or underwriter of the securities, who, being

the bona fide owner of such securities, disposes of her or his own property for her or his own account, and such sale is not made directly or indirectly for the benefit of the issuer or an underwriter of such securities or for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of this chapter. For purposes of this subsection, isolated offers or sales include, but are not limited to, an isolated offer or sale made by or on behalf of a vendor of securities not the issuer or underwriter of the securities if:

(a) The offer or sale of securities is in a transaction satisfying all of the requirements of subparagraphs (11)(a)1., 2., 3., and 4. and paragraph (11)(b); or

(b) The offer or sale of securities is in a transaction exempt under s. 4(1) of the Securities Act of 1933, as amended.

For purposes of this subsection, any person, including, without limitation, a promoter or affiliate of an issuer, shall not be deemed an underwriter, an issuer, or a person acting for the direct or indirect benefit of the issuer or an underwriter with respect to any securities of the issuer which she or he has owned beneficially for at least 1 year.

(11)(a) The offer or sale, by or on behalf of an issuer, of its own securities, which offer or sale is part of an offering made in accordance with all of the following conditions:

1. There are no more than 35 purchasers, or the issuer reasonably believes that there are no more than 35 purchasers, of the securities of the issuer in this state during an offering made in reliance upon this subsection or, if such offering continues for a period in excess of 12 months, in any consecutive 12-month period.

2. Neither the issuer nor any person acting on behalf of the issuer offers or sells securities pursuant to this subsection by means of any form of general solicitation or general advertising in this state.

3. Prior to the sale, each purchaser or the purchaser's ~~his~~ representative, if any, is provided with, or given reasonable access to, full and fair disclosure of all material information.

4. No person defined as a "dealer" in this chapter is paid a commission or compensation for the sale of the issuer's securities unless such person is registered as a dealer under this chapter.

5. When sales are made to five or more persons in this state, any sale in this state made pursuant to this subsection is voidable by the purchaser in such sale either within 3 days after the first tender of consideration is made by such purchaser to the issuer, an agent of the issuer, or an escrow agent or within 3 days after the availability of that privilege is communicated to such purchaser, whichever occurs later.

(b) The following purchasers are excluded from the calculation of the number of purchasers under subparagraph (a)1.:

1. Any relative or spouse, or relative of such spouse, of a purchaser who has the same principal residence as such purchaser.
2. Any trust or estate in which a purchaser, any of the persons related to such purchaser specified in subparagraph 1., and any corporation specified in subparagraph 3. collectively have more than 50 percent of the beneficial interest (excluding contingent interest).
3. Any corporation or other organization of which a purchaser, any of the persons related to such purchaser specified in subparagraph 1., and any trust or estate specified in subparagraph 2. collectively are beneficial owners of more than 50 percent of the equity securities or equity interest.
4. Any purchaser who makes a bona fide investment of \$100,000 or more, provided such purchaser or the purchaser's ~~his~~ representative receives, or has access to, the information required to be disclosed by subparagraph (a)3.
5. Any accredited investor, as defined by rule of the department in accordance with Securities and Exchange Commission Regulation 230.501 (17 C.F.R. 230.501).

Section 1167. Paragraphs (a), (c), and (d) of subsection (7) of section 517.12, Florida Statutes (1996 Supplement), are amended to read:

517.12 Registration of dealers, associated persons, investment advisers, and branch offices.—

(7) The application shall also contain such information as the department may require about the applicant; any partner, officer, or director of the applicant or any person having a similar status or performing similar functions; any person directly or indirectly controlling the applicant; or any employee of a dealer or of an investment adviser rendering investment advisory services. Each applicant shall file a complete set of fingerprints taken by an authorized law enforcement officer. Such fingerprints shall be submitted to the Department of Law Enforcement or the Federal Bureau of Investigation for state and federal processing. The department may waive, by rule, the requirement that applicants must file a set of fingerprints or the requirement that such fingerprints must be processed by the Department of Law Enforcement or the Federal Bureau of Investigation. The department may require information about any such applicant or person concerning such matters as:

(a) His or her full name, and any other names by which he or she may have been known, and his or her age, photograph, qualifications, and educational and business history.

(c) His or her conviction of, or plea of nolo contendere to, a criminal offense or his or her commission of any acts which would be grounds for refusal of an application under s. 517.161.

(d) The names and addresses of other persons of whom the department may inquire as to his or her character, reputation, and financial responsibility.

Section 1168. Paragraph (b) of subsection (3) of section 517.131, Florida Statutes (1996 Supplement), is amended to read:

517.131 Securities Guaranty Fund.—

(3) Any person is eligible to seek recovery from the Securities Guaranty Fund if:

(b) Such person has made all reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets subject to being sold or applied in satisfaction of the judgment, and by her or his search the person ~~he~~ has discovered no property or assets; or she or he has discovered property and assets and has taken all necessary action and proceedings for the application thereof to the judgment, but the amount thereby realized was insufficient to satisfy the judgment. To verify compliance with such condition, the department may require such person to have a writ of execution be issued upon such judgment and may further require a showing that no personal or real property of the judgment debtor liable to be levied upon in complete satisfaction of the judgment can be found.

Section 1169. Paragraphs (h) and (k) of subsection (1) and subsection (3) of section 517.161, Florida Statutes (1996 Supplement), are amended to read:

517.161 Revocation, denial, or suspension of registration of dealer, investment adviser, associated person, or branch office.—

(1) Registration under s. 517.12 may be denied or any registration granted may be revoked, restricted, or suspended by the department if the department determines that such applicant or registrant:

(h) Has demonstrated ~~his~~ unworthiness to transact the business of dealer, investment adviser, or associated person;

(k) Has had a final judgment entered against her or him in a civil action upon grounds of fraud, embezzlement, misrepresentation, or deceit;

(3) In the event the department determines to deny an application or revoke a registration, it shall enter a final order with its findings on the register of dealers and associated persons; and denial, suspension, or revocation of the registration of a dealer or investment adviser shall also deny, suspend, or revoke the registration of all her or his associated persons.

Section 1170. Subsection (2) of section 517.2015, Florida Statutes (1996 Supplement), is amended to read:

517.2015 Confidentiality of information relating to investigations and examinations.—

(2) If information subject to subsection (1) is offered in evidence in any administrative, civil, or criminal proceeding, the presiding officer may, in her or his discretion, prevent the disclosure of information which would be confidential pursuant to paragraph (1)(b).

Section 1171. Subsections (3) and (6) of section 519.101, Florida Statutes (1996 Supplement), are amended to read:

519.101 Florida equity exchange feasibility study; structure, operation, and regulation.—

(3) Within 30 days following such determination, a committee shall be appointed to write the constitution and bylaws of the exchange. The Comptroller may provide technical assistance to the committee on the development of the constitution and bylaws of the exchange. The committee shall consist of 15 members, 11 members to be appointed by the Governor, 2 members to be appointed by the Speaker of the House of Representatives, and 2 members to be appointed by the President of the Senate. The chair chairman shall be elected by a majority of the committee. The committee shall transmit such proposed constitution, bylaws, and other recommendations for the approval of the Comptroller no later than 90 days following the first meeting of the committee. In reviewing the constitution and the bylaws of the exchange, as well as any other recommendations made to the Comptroller by the committee, the Comptroller shall consider whether such constitution, bylaws, and recommendations are reasonably consistent with the public interest and the efficient functioning of the exchange. The Comptroller shall approve the constitution and bylaws of the exchange if he or she finds that they specifically describe the types of business that the exchange will conduct, that such business activities are not inconsistent with state or federal law, that the form of business organization of the exchange complies with statutory requirements, and that the interest of owners or members of the exchange would be adequately protected. The submission of the proposed constitution and bylaws to the Comptroller shall be deemed an application for a license and shall be subject to the provisions of s. 120.80(9).

(6) If the exchange contemplated by this section is established, the Comptroller shall furnish the chairs chairmen of the finance and taxation committees of the Legislature with copies of its constitution and bylaws. Upon receipt of the constitution and bylaws, the Legislature shall consider what tax policy and tax exemptions are needed to facilitate successful operation of the exchange.

Section 1172. Subsection (2) of section 520.9965, Florida Statutes (1996 Supplement), is amended to read:

520.9965 Confidentiality of information relating to investigations and examinations.—

(2) If information subject to subsection (1) is offered in evidence in any administrative, civil, or criminal proceeding, the presiding officer may, in his or her discretion, prevent the disclosure of information which would be confidential pursuant to paragraph (1)(b).

Section 1173. Subsections (8), (11), and (12) of section 542.28, Florida Statutes (1996 Supplement), are amended to read:

542.28 Civil investigative demand.—

(8) When the testimony is fully transcribed, the person conducting the deposition shall afford the witness, and counsel if any, a reasonable opportunity to examine the transcript, and the transcript shall be read to or by the witness, unless such examination and reading is waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the officer, the Attorney General, or a state attorney, with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness unless the witness waives the signing in writing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within 30 days of his or her being afforded a reasonable opportunity to examine it, the person conducting the examination shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or refusal to sign, together with the reason, if any, given therefor. Any person required to testify or to submit documentary evidence is entitled, on payment of reasonable costs, to procure a copy of any document produced by such person and of his or her own testimony as stenographically reported or, in the case of a deposition, as reduced to writing by or under the direction of the person taking the deposition.

(11) The Attorney General or a state attorney may request that any natural person who refuses to comply with any provisions of this section on the ground that the testimony or documents may incriminate him or her be ordered by the circuit court to provide the testimony or the documents. Except in a prosecution for perjury, a natural person who complies with a court order to provide testimony or documents after asserting a privilege against self-incrimination to which he or she is entitled by law may not be subject to a criminal proceeding or to the civil penalty of s. 542.21(1), with respect to the transaction to which he or she is required to testify or produce documents. Any natural person who fails to comply with such a court order to testify or produce documents may be adjudged in contempt and imprisoned until the time the person ~~he~~ purges himself or herself of the contempt.

(12) While in the possession of the custodian, documentary material, answers to interrogatories, and transcripts of oral testimony shall be available, under such reasonable terms and conditions as the Attorney General or a state attorney shall prescribe, for examination by the person who produced such materials or answers, or that person's ~~his~~ duly authorized representative.

Section 1174. Paragraph (c) of subsection (3) of section 550.2415, Florida Statutes (1996 Supplement), is amended to read:

550.2415 Racing of animals under certain conditions prohibited; penalties; exceptions.—

(3)

(c) If an occupational licensee is summarily suspended under this section, the division shall offer the licensee a prompt postsuspension hearing within 72 hours, at which the division shall produce the laboratory report and documentation which, on its face, establishes the responsibility of the

occupational licensee. Upon production of the documentation, the occupational licensee has the burden of proving his or her lack of responsibility.

Section 1175. Paragraphs (c) and (d) of subsection (5) and subsections (8) and (11) of section 553.79, Florida Statutes (1996 Supplement), are amended to read:

553.79 Permits; applications; issuance; inspections.—

(5)

(c) The board shall, by rule, establish a qualification program for special inspectors and shall compile a list of persons qualified to be special inspectors. Special inspectors shall not be required to meet standards for qualification other than those established by the board, nor shall the fee owner of a threshold building be prohibited from selecting any person qualified by the board to be a special inspector. The architect or engineer of record may act as the special inspector provided she or he is on the list of persons qualified to be special inspectors. School boards may utilize employees as special inspectors provided such employees are on the list of persons qualified to be special inspectors.

(d) The licensed architect or registered engineer serving as the special inspector shall be permitted to send her or his duly authorized representative to the job site to perform the necessary inspections provided all required written reports are prepared by and bear the seal of the special inspector and are submitted to the enforcement agency.

(8) No enforcing agency may issue a building permit for construction of any threshold building except to a licensed general contractor, as defined in s. 489.105(3)(a), or to a licensed building contractor, as defined in s. 489.105(3)(b), within the scope of her or his license. The named contractor to whom the building permit is issued shall have the responsibility for supervision, direction, management, and control of the construction activities on the project for which the building permit was issued.

(11) The enforcing agency shall require each building permit for the demolition or renovation of an existing structure to contain an asbestos notification statement which indicates the owner's or operator's responsibility to comply with the provisions of s. 469.003 and to notify the Department of Environmental Protection of her or his intentions to remove asbestos, when applicable, in accordance with state and federal law.

Section 1176. Paragraph (a) of subsection (1) of section 556.105, Florida Statutes (1996 Supplement), is amended to read:

556.105 Procedures.—

(1)(a) Not less than 2 nor more than 5 business days before beginning any excavation or demolition, an excavator shall provide the following information through the system:

1. The name of the individual who provided notification and the name, address, including the street address, city, state, zip code, and telephone number of her or his employer.

2. The name and telephone number of the representative for the excavator.
3. The county, the city or closest city, and the street address or the closest street, road, or intersection to the location where the excavation or demolition is to be performed, and the construction limits of the excavation or demolition.
4. The commencement date and anticipated duration of the excavation or demolition.
5. Whether machinery will be used for the excavation or demolition.
6. The person or entity for whom the work is to be done.
7. The type of work to be done.
8. The approximate depth of the excavation.

Section 1177. Paragraph (e) of subsection (1) of section 556.107, Florida Statutes (1996 Supplement), is amended to read:

556.107 Violations.—

(1) NONCRIMINAL INFRACTIONS.—

(e) Any person charged with a noncriminal infraction under paragraph (a), unless required to appear before the county court, may:

1. Pay the civil penalty, in lieu of appearance, either by mail or in person, within 10 days after the date of receiving the citation; or
2. Forfeit bond, if a bond has been posted, by not appearing at the designated time and location.

If the person cited follows either of the above procedures, she or he shall be deemed to have admitted to committing the infraction and to have waived the right to a hearing on the issue of commission of the infraction. Such admission may be used as evidence in any other proceeding under this act.

Section 1178. Paragraph (b) of subsection (3) of section 561.15, Florida Statutes (1996 Supplement), is amended to read:

561.15 Licenses; qualifications required.—

(3) The division may suspend or revoke the license under the Beverage Law of, or may refuse to issue a license under the Beverage Law to:

(b) Any corporation if an officer, director, or person interested directly or indirectly in the corporation has had her or his license under the Beverage Law revoked or has abandoned her or his license after written notice that revocation or suspension proceedings had been or would be brought against her or his license; or

Any license issued to a person, firm, or corporation that would not qualify for the issuance of a new license or the transfer of an existing license may be revoked by the division. However, any company regularly traded on a national securities exchange and not over the counter; any insurer, as defined in the Florida Insurance Code; or any bank or savings and loan association chartered by this state, another state, or the United States which has an interest, directly or indirectly, in an alcoholic beverage license shall not be required to obtain division approval of its officers, directors, or stockholders or any change of such positions or interests. Any such company, insurer, bank, or savings and loan association which has a direct or indirect interest or which has an ownership interest in the business sought to be licensed, but which does not operate that business, may elect to place the license solely in the name of the operator. The operator's license application shall list the direct, indirect, or ownership interest and the names of the officers, directors, stockholders, or partners of such company, insurer, bank, or association. A shopping center with five or more stores, one or more of which has an alcoholic beverage license and is required under a lease common to all shopping center tenants to pay no more than 10 percent of the gross proceeds of the business holding the license to the shopping center, shall not be considered as having an interest, directly or indirectly, in the license.

Section 1179. Paragraph (d) of subsection (2) of section 561.19, Florida Statutes (1996 Supplement), is amended to read:

561.19 License issuance upon approval of division.—

(2)

(d) The director shall not include more than one application from any one person, firm, or corporation in the random selection process, nor may she or he consider more than one application for any one person, firm, or corporation when there are fewer applications than available licenses.

Section 1180. Subsection (6) of section 561.705, Florida Statutes (1996 Supplement), is amended to read:

561.705 Responsible vendor qualification.—To qualify as a responsible vendor, the vendor must:

(6) Require each employee, as a condition of her or his initial employment, to complete a written questionnaire providing the vendor the same information as is required by the division from persons who apply for alcoholic beverage licenses and to determine therefrom whether the employee is precluded by law from serving or selling alcoholic beverages; however, employees of vendors licensed under s. 563.02(1)(a) or s. 564.02(1)(a) shall not be subject to the requirements of this subsection.

Section 1181. Subsection (1) of section 561.706, Florida Statutes (1996 Supplement), is amended to read:

561.706 Exemption from license suspension or revocation; mitigation for certain beverage law violations; records of arrests.—

(1) The license of a vendor qualified as a responsible vendor under this act may not be suspended or revoked for an employee's illegal sale or service of an alcoholic beverage to a person who is not of lawful drinking age or for an employee's engaging in or permitting others to engage in the illegal sale, use of, or trafficking in controlled substances, if the employee had completed the applicable training prescribed by this act prior to committing such violation, unless the vendor had knowledge of the violation, should have known about such violation, or participated in or committed such violation. No vendor may use as a defense to suspension or revocation the fact that she or he was absent from the licensed premises at the time a violation of the Beverage Law occurred if the violations are flagrant, persistent, repeated, or recurring.

Section 1182. Subsection (1) of section 570.02, Florida Statutes (1996 Supplement), is amended to read:

570.02 Definitions of terms.—The following words and phrases as used in this chapter and in the agricultural laws of this state, unless the context otherwise requires, shall have the meanings respectively ascribed to them in this section:

(1) "Agriculture" means the science and art of production of plants and animals useful to humans ~~man~~, including to a variable extent the preparation of these products for human ~~man~~'s use and their disposal by marketing or otherwise, and includes aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and farm production. For the purposes of marketing and promotional activities, seafood shall also be included in this definition.

Section 1183. Subsection (10) of section 570.544, Florida Statutes (1996 Supplement), is amended to read:

570.544 Division of Consumer Services; director; powers; processing of complaints; records.—

(10) If the division by its own inquiry, or as a result of complaints, has reason to believe that a violation of the laws of the state relating to consumer protection has occurred or is occurring, it may conduct an investigation, subpoena witnesses and evidence, and administer oaths and affirmations. If, as a result of the investigation, the division has reason to believe a violation of chapter 501, other than a violation of ss. 501.91-501.923, has occurred, the division with the coordination of the Department of Legal Affairs and any state attorney, if the violation has occurred or is occurring within her or his judicial circuit, shall have the authority to bring an action in accordance with the provisions of chapter 501.

Section 1184. Paragraph (b) of subsection (3) of section 570.903, Florida Statutes (1996 Supplement), is amended to read:

570.903 Direct-support organization.—

(3)

(b) If the direct-support organization fails to submit the audit report at the appropriate time, the Auditor General may, pursuant to her or his own authority, conduct the audit, or the Auditor General shall conduct the audit at the direction of the Joint Legislative Auditing Committee, or the department shall engage an independent certified public accountant to conduct the audit. The direct-support organization shall pay for the entire costs of the audit.

Section 1185. Subsection (4) of section 573.123, Florida Statutes (1996 Supplement), is amended to read:

573.123 Maintenance and production of records.—

(4) No person shall be excused from attending and testifying or from producing documentary evidence before the department, or its duly authorized or designated representative or representatives, in obedience to the subpoena of the department on the ground or the reason that the testimony or evidence, documentary or otherwise, required of the person ~~him~~ may tend to incriminate her or him or subject her or him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which she or he may be so required to testify, or to produce evidence, documentary or otherwise, before the department in obedience to a subpoena issued, provided no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Section 1186. Paragraph (c) of subsection (2) of section 578.13, Florida Statutes (1996 Supplement), is amended to read:

578.13 Prohibitions.—

(2) It shall be unlawful for any person within this state:

(c) To hinder or obstruct in any way any authorized person in the performance of her or his duties under this law.

Section 1187. Subsection (3) of section 578.30, Florida Statutes (1996 Supplement), is amended to read:

578.30 Seed Technical Council.—

(3) MEETINGS; PROCEDURES; RECORDS.—The council shall meet at least annually and elect a chair ~~chairman~~ and a vice chair ~~chairman~~ for 1-year terms.

(a) The council shall meet at the call of the chair ~~chairman~~, at the request of the department or a majority of the council membership, or at such times as may be prescribed by council rules.

(b) The Commissioner of Agriculture shall designate one of the department representatives to serve as the secretary of the council.

(c) In conducting its meetings, the council shall use accepted rules of procedure. The secretary shall keep a complete record of the proceedings of

each meeting, which shall show the names of the members present at each meeting and the actions taken. The records shall be kept on file with the secretary and shall be public records.

Section 1188. Subsections (15) and (18) of section 585.01, Florida Statutes (1996 Supplement), are amended to read:

585.01 Definitions.—In construing this part, where the context permits, the word, phrase, or term:

(15) “Pathogenic organisms” means microorganisms, such as bacteria, viruses, rickettsia, etc., capable of causing diseases in animals or humans ~~man~~. “Virulent organisms” are pathogenic organisms that are extremely dangerous and are characterized by being highly contagious.

(18) “Transmissible,” “communicable,” “contagious,” and “infectious” all refer to diseases which are readily transferred between or among animals in a group or to susceptible animals in proximity to diseased animals. Such transference may be directly from one animal to another, by contact with objects contaminated by disease-causing agents, or by insect (vector) transmission of disease-causing agents from diseased animals into susceptible animals or humans ~~man~~.

Section 1189. Subsection (2) of section 585.19, Florida Statutes (1996 Supplement), is amended to read:

585.19 Duty of practitioners of veterinary medicine and owners of animals to report dangerous transmissible diseases or pests; penalty.—

(2) Any owner who knows or suspects that her or his animal is afflicted with or suffering from a disease or pest designated on the department’s dangerous transmissible disease list shall immediately report the same to the State Veterinarian in the manner which the department shall prescribe.

Section 1190. Section 585.20, Florida Statutes (1996 Supplement), is amended to read:

585.20 Injection of pathogenic organisms into animals.—No person shall inject or otherwise administer to any animal that may be used as food for humans ~~man~~ or whose products may be used as food for humans ~~man~~ any virus or other substance containing pathogenic or disease producing organisms of a kind that is virulent to humans ~~man~~ or which would cause any disease listed by the department as a dangerous transmissible disease in animals, except with the written permission of the State Veterinarian.

Section 1191. Subsection (9) of section 601.10, Florida Statutes (1996 Supplement), is amended to read:

601.10 Powers of the Department of Citrus.—The Department of Citrus shall have and shall exercise such general and specific powers as are delegated to it by this chapter and other statutes of the state, which powers shall include, but shall not be confined to, the following:

(9) When, in the opinion of the Department of Citrus, the tax revenues collected pursuant to this chapter, whether allocated for research, advertising or promotion, reserve funds, advertising incentive plans, or other purposes, are not immediately needed for the purpose for which such funds are provided, the Treasurer is authorized and shall, upon the request and approval of the Department of Citrus, or its general manager if she or he has been given such authority, invest and reinvest the funds designated and for the period of time specified in such request. In the investment of such funds, the Treasurer shall have the powers and be subject to the limitations provided for in s. 18.125.

Section 1192. Subsection (4), paragraph (a) of subsection (8), and paragraph (b) of subsection (9) of section 601.15, Florida Statutes (1996 Supplement), are amended to read:

601.15 Advertising campaign; methods of conducting; excise tax; emergency reserve fund; citrus research.—

(4) Every handler shall keep a complete and accurate record of all citrus fruit handled by her or him. Such record shall be in such form and contain such other information as the Department of Citrus shall by rule or regulation prescribe. Such records shall be preserved by such handlers for a period of 1 year and shall be offered for inspection at any time upon oral or written demand by the Department of Citrus or its duly authorized agents or representatives.

(8)(a) On certification by any employee of the Department of Citrus that her or his actual and necessary expenses on any particular day while traveling outside the state exceeded the per diem provided by law, such employee shall show such excess on her or his regular expense voucher and support the same by the proof required pursuant to rules and regulations to be promulgated by the Department of Citrus.

(9)

(b) The Department of Citrus may collect any taxes levied and assessed by this chapter in any or all of the following methods:

1. By the voluntary payment by the person liable therefor.
2. By a suit at law.
3. By a suit in equity to enjoin and restrain any handler, citrus fruit dealer, or other person owing such taxes from operating her or his business or engaging in business as a citrus fruit dealer until the delinquent taxes are paid. Such action may include an accounting to determine the amount of taxes plus delinquencies due. In any such proceeding, it is not necessary to allege or prove that an adequate remedy at law does not exist.

Section 1193. Paragraph (c) of subsection (1), subsection (7), and paragraph (b) of subsection (10) of section 601.152, Florida Statutes (1996 Supplement), are amended to read:

601.152 Special marketing orders.—

(1)

(c) A full and complete record of all proceedings at such public hearing shall be made and filed by the department at its offices, which record, when signed by the ~~chair~~ chairman of the commission and authenticated by the seal of the department, shall constitute prima facie evidence of such proceedings in all courts of this state.

(7) For the purpose of carrying out any and all provisions of this section, the department, or its duly authorized or designated representative or representatives, may hold hearings, take testimony, and administer oaths. Copies of the proceedings, records, and acts of the department and the handlers' committee, if any, established by the marketing order and certificates purporting to relate the facts concerning such proceedings, records, and acts signed by the ~~chair~~ chairman of the commission and authenticated by the seal of the department shall be prima facie evidence thereof in all the courts of the state.

(10)

(b) The Department of Citrus may collect the assessments imposed pursuant to this section in either or all of the following methods:

1. The voluntary payment by the handler liable therefor;

2. By a suit at law;

3. By a suit in equity to enjoin and restrain any handler owing such assessments from operating his or her business or engaging in business as a citrus fruit dealer until the delinquent assessments are paid. Such action may include an accounting to determine the amount of assessments plus delinquencies due. In any such proceeding, it shall not be necessary to allege or prove that an adequate remedy at law does not exist.

Section 1194. Paragraph (c) of subsection (2), paragraphs (a), (b), (c), and (e) of subsection (4), subsection (9), and paragraphs (a) and (b) of subsection (13) of section 601.154, Florida Statutes (1996 Supplement), are amended to read:

601.154 Citrus Stabilization Act of Florida.—

(2)

(c) Due notice of any hearing called for such purpose shall be given by the commission by publishing notice one time of the time and place of such hearing in at least eight daily newspapers of wide circulation within the citrus producing area of the state to be selected by the commission. Such notice shall be so published not fewer than 7 days or more than 60 days prior to the date set for such hearing. A copy of the proposed marketing order or amendment thereto shall be available at the commission for examination or copying by any interested party on or before the date of publication of notice of hearing, and such notice shall so state. Such hearing shall be open to the

public. All testimony shall be received under oath and a full and complete record of all proceedings at any such hearing shall be made and filed by the commission in its offices, which record signed by the ~~chair~~ chairman of the commission and authenticated by the seal of the commission shall constitute prima facie evidence of such proceedings in all courts of the state.

(4)(a) Every marketing order issued pursuant to the provisions of this section shall provide for an advisory council to advise the Department of Citrus in the administration thereof. Two members of such advisory council shall be appointed by the commission ~~chair~~ chairman, subject to commission concurrence, from each of the three citrus districts as defined in s. 601.09 from producer nominees submitted by producers on or before the date of the hearing provided for in subsection (2). To qualify for appointment, such producer nominees shall meet the same qualifications as those for grower members of the commission set forth in s. 601.04(1).

(b) If the marketing order contains provisions authorized by paragraph (5)(c) or paragraph (5)(e) pertaining to processed citrus products, six additional members of such advisory council shall be appointed by the commission ~~chair~~ chairman, subject to commission concurrence, from processor nominees, each of whom shall be experienced in and actively engaged in an executive capacity as an officer, employee, or owner of a corporation or other business unit engaged in processing the type of processed orange, grapefruit, tangerine, or citrus hybrid products to be purchased or marketed pursuant to the provisions of such marketing order, which processor nominees shall have been submitted by processors on or before the date of such hearing.

(c) If the marketing order contains provisions authorized by paragraph (5)(b) or paragraph (5)(e) pertaining to fresh citrus fruits, six additional members of such advisory council shall be appointed by the commission ~~chair~~ chairman, subject to commission concurrence, from shipper nominees, each of whom shall be experienced in and actively engaged in an executive capacity as an officer, employee, or owner of a corporation or other business unit engaged in shipping fresh oranges, grapefruit, tangerines, or citrus hybrids to be purchased or marketed pursuant to the provisions of such marketing order, which fresh fruit shipper nominees shall have been submitted by fresh fruit shippers on or before the date of such hearing.

(e) The advisory council shall elect annually a ~~chair~~ chairman, a vice ~~chair~~ chairman, and a secretary. The advisory council shall meet at the call of its ~~chair~~ chairman, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules of procedure. A complete record of the proceedings of each meeting shall be kept, which shall show the names of the members present and the actions taken.

(9) For the purpose of carrying out any and all provisions of this section, the commission, or its duly authorized or designated representative or representatives, may hold hearings, take testimony, and administer oaths and may, after any marketing order has become final, subpoena witnesses and issue subpoenas for the production of books, records, or documents relevant and material to the marketing order. Copies of the proceedings, records, and

acts of the commission and certificates purporting to relate the facts concerning such proceedings, records, and acts, signed by the ~~chair~~ chairman of the commission and authenticated by the seal of the commission, shall be prima facie evidence thereof in all the courts of the state.

(13)(a) Every handler, producer, or other person delivering oranges, grapefruit, tangerines, or citrus hybrids to any handler or other person shall keep a complete and accurate record of all oranges, grapefruit, tangerines, or citrus hybrids handled by her or him. Such record shall be in such form and contain such information as the Department of Citrus shall by rule or regulation prescribe. Such records shall be preserved by all such persons for a period of at least 1 year after the termination of the marketing order to which such records relate and shall be offered for inspection at any time upon oral or written demand by the Department of Citrus or its duly authorized agent or representative.

(b) Every handler shall, at such times as the Department of Citrus may by rule or regulation require, file with the Department of Citrus a return on forms to be prescribed and furnished by the Department of Citrus certifying the number of standard-packed boxes of the variety of citrus fruit covered by a marketing order handled by her or him in the primary channel of trade during the period of time prescribed by the Department of Citrus.

Section 1195. Paragraphs (b) and (c) of subsection (5) of section 602.055, Florida Statutes (1996 Supplement), are amended to read:

602.055 Office of Citrus Canker Claims established; duties.—

(5) The Office of Citrus Canker Claims shall design an application and other forms to administer this act, which application and forms shall not be subject to chapter 120. The application and other forms shall be designed to:

(b) Provide a place where the claimant may indicate that he or she disputes values established by s. 602.035 or the number and category of citrus nursery plants in the records of the Department of Agriculture and Consumer Services and requests a hearing before an administrative law judge from the Division of Administrative Hearings. The form shall clearly indicate that where a claimant proceeds before an administrative law judge the state is entitled to present evidence that in the claimant's particular case the values established in s. 602.035 exceed the fair market value of the claimant's losses.

(c) Provide a place for the claimant's explanation of why he or she disagrees with the information provided by the records of the Department of Agriculture and Consumer Services.

Section 1196. Subsections (1) and (4) of section 604.21, Florida Statutes (1996 Supplement), are amended to read:

604.21 Complaint; investigation; hearing.—

(1) Any person claiming herself or himself to be damaged by any breach of the conditions of a bond or certificate of deposit assignment or agreement

given by a licensed dealer in agricultural products as hereinbefore provided may enter complaint thereof against the dealer and against the surety, if any, to the department, which complaint shall be a written statement of the facts constituting the complaint. Such complaint shall be filed within 6 months from the date of sale in instances involving direct sales or from the date on which the agricultural product was received by the dealer in agricultural products, as agent, to be sold for the producer. No complaint shall be filed pursuant to this section unless the transactions involved total at least \$250 and occurred in a single license year.

(4) If the dealer, in her or his answer, denies the allegations of the complaint and waives a hearing, the department may order a hearing or enter an order based on the facts and circumstances set forth in the complaint and the respondent's answer thereto. If the department determines the complaint has not been established, the order shall, among other things, dismiss the proceedings. If the department determines that the allegations of the complaint have been established, it shall enter its findings of fact accordingly and thereupon enter its order adjudicating the amount of indebtedness due to be paid by the dealer to the complainant.

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

Became a law without the Governor's approval May 24, 1997.

Filed in Office Secretary of State May 23, 1997.